

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA) Docket No. A 12-CR-210 SS
)
vs.) Austin, Texas
)
JOSE TREVINO-MORALES (3))
FRANCISCO ANTONIO)
COLORADO-CESSA (6))
FERNANDO SOLIS-GARCIA (7))
EUSEVIO MALDONADO-HUITRON (11))
JESUS MALDONADO-HUITRON (18)) April 22, 2013

TRANSCRIPT OF TRIAL ON THE MERITS
BEFORE THE HONORABLE SAM SPARKS
Volume 6 of 15

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25 Proceedings reported by computerized stenography, transcript produced by computer.

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08:25:10

08:25:10 1 THE COURT: All right. Let's go on the record.

08:25:13 2 Counsel, anything before I bring in the jury?

08:25:16 3 MR. GARDNER: Your Honor, just waiting for the parties

08:25:18 4 to execute the stipulation. I'd like to introduce evidence as

08:25:23 5 our first item this morning.

08:25:27 6 THE COURT: For the record, he means sign --

08:25:30 7 MR. MAYR: Right. One more signature.

08:25:38 8 THE COURT: Is that a song, just one more thing? Did

08:25:48 9 you have anything else?

08:25:50 10 MR. MAYR: I did not, Judge.

08:25:51 11 MR. GARDNER: No, your Honor.

08:25:52 12 THE COURT: Okay. Bring them in.

08:26:07 13 MR. GARDNER: Your Honor, I'm just giving you -- these

08:26:09 14 are the list of evidence items for your reference, also tender

08:26:12 15 one to the clerk, and I'll be reading the following the

08:26:14 16 stipulation.

08:26:28 17 (Jury present.)

08:28:06 18 THE COURT: Well, it was a gorgeous weekend, but it

08:28:09 19 didn't seem to help Texas baseball in any way. Men nor women.

08:28:15 20 But while they were playing baseball and after you left the

08:28:18 21 courtroom and before you came here today, has anyone attempted to

08:28:21 22 talk to you about this case?

08:28:22 23 JURORS: No.

08:28:24 24 THE COURT: Have you talked to anyone about the case?

08:28:26 25 JURORS: No.

08:28:26 1 THE COURT: And have you learned anything at all about
08:28:29 2 the case, outside the presence of each other in this courtroom?

08:28:31 3 JURORS: No, sir.

08:28:33 4 THE COURT: All right. Show negative responses to all
08:28:35 5 questions by all jurors. You may call your witness.

08:28:38 6 MR. GARDNER: Thank you, your Honor.

08:28:39 7 Your Honor, based on the testimony of a number of
08:28:42 8 custodial witnesses on Friday, the parties have entered into a
08:28:46 9 stipulation regarding the physical evidence. At this point, we
08:28:50 10 would offer Government's Exhibit 405 as a stipulation that's been
08:28:54 11 signed by all the parties.

08:28:56 12 THE COURT: You may read the stipulation.

08:28:58 13 MR. GARDNER: United States of America vs. Jose
08:29:04 14 Trevino-Morales, Francisco Antonio Colorado-Cessa, Fernando
08:29:08 15 Solis-Garcia, Eusevio Maldonado-Huitron and Jesus

08:29:13 16 Maldonado-Huitron, stipulation: Comes now the United States of
08:29:16 17 America by and through the assistant United States Attorney for
08:29:19 18 the Western District of Texas and the defendants, Jose
08:29:23 19 Trevino-Morales, Francisco Antonio Colorado-Cessa, Fernando
08:29:27 20 Solis-Garcia, Eusevio Maldonado-Huitron, Jesus Maldonado-Huitron,
08:29:32 21 and their respective defense attorneys and hereby stipulate to
08:29:35 22 the following facts.

08:29:36 23 The defendants fully understand that they do not have
08:29:39 24 to stipulate to these facts and that each defendant has an
08:29:42 25 individual constitutional right to require the government to call

08:29:44 1 witnesses at trial and have them testify as to the facts
08:29:47 2 stipulated to in this agreement. The defendants also understand
08:29:51 3 that they each have the individual constitutional right to
08:29:54 4 cross-examine any witness the government might call to give
08:29:57 5 testimony against them. Knowing all of the above, the
08:30:00 6 defendants, after consultation with their respective individual
08:30:03 7 attorneys, agree to waive these two rights and agree to stipulate
08:30:06 8 to the following facts:

08:30:07 9 That on June 12th, 2012, agents with the Federal Bureau
08:30:12 10 of Investigation, Drug Enforcement Administration and Internal
08:30:16 11 Revenue Service executed search warrants on the locations listed
08:30:18 12 below. The named agents collected papers, pictures, computers,
08:30:22 13 phones, and other items, and placed them into designated boxes
08:30:26 14 labeled with an identifier number. These agents had no role in
08:30:29 15 the investigation of the criminal matter and were tasked with the
08:30:32 16 collection of the above items only. The agents then sealed the
08:30:34 17 boxes and arranged for them to be securely transported --

08:30:39 18 INTERPRETER: I lost you after "the boxes."

08:30:41 19 MR. GARDNER: Oh, I'm sorry. Thank you for stopping
08:30:43 20 me. Let me just start that whole sentence again.

08:30:47 21 The named agents collected papers, pictures, computers,
08:30:51 22 phones, and other items, and placed them in designated boxes
08:30:55 23 labeled with an identifier number. These agents had no role in
08:31:00 24 the investigation of the criminal matter and were tasked with the
08:31:05 25 collection of the above items only. The agents then sealed the

08:31:07 1 boxes and arranged for them to be securely transported to San
08:31:11 2 Antonio and Austin, Texas for evaluation. The following
08:31:15 3 locations are such:

08:31:16 4 84th Street Lexington, Oklahoma search warrant. FBI

08:31:23 5 Special Agent Andrew Farabow collected boxes 1B-152, 1B-153,
08:31:31 6 1B-154. Special Agent Carole Lee collected boxes 1B-5 and 1B-13.

08:31:37 7 Special Agent James Killpack collected boxes 1B-19, 1B-22, 1B-33,
08:31:45 8 1B-35, 1B-37. Special Agent Anne Fernandez collected boxes 1B-78
08:31:52 9 and 1B-79. And Special Agent Scott Thagard collected boxes
08:31:58 10 1B-81, 1B-83, 1B-84, 1B-94, 1B-95, 1B-97, 1B-99, 1B-105, 1B-110,
08:32:11 11 1B-111.

08:32:14 12 MR. FINN: Excuse me, your Honor, can I approach?

08:32:20 13 MR. GARDNER: 1B-113, 1B-114, 1B-122, 1B-134 and
08:32:30 14 1B-135.

08:32:30 15 801 Seeling Drive and at Highway 183 at Austin, Texas,
08:32:36 16 the search warrants, Special Agent Donna Cowling of the FBI
08:32:40 17 collected the following boxes: 1B-168, 1B-175, 1B-179, 1B-198,
08:32:50 18 1B-209, 1B-222, 1B-224, 1B-226, 1B-227, 1B-229, 1B-230, 1B-234,
08:33:06 19 1B-238. Special Agent Kevin Hicks seized the following: 1B-258,
08:33:12 20 1B-259.

08:33:15 21 At the Mission, Texas search warrant, FBI Special Agent
08:33:18 22 Carlos Salinas seized the following boxes: 1B-263, 1B-266,
08:33:27 23 1B-269.

08:33:27 24 At the Ruidoso and Alto, New Mexico search warrants,
08:33:31 25 Special Agent David Kice seized the following: 1B-287, 1B-288,

08:33:39 1 1B-291, 1B-293, 1B-294, 1B-296, 1B-298, 1B-300, 1B-303, 1B-305,
08:33:54 2 1B-309.

08:33:56 3 At the Dallas, Texas search warrant, Special Agent
08:33:58 4 Santiago Moya seized the following items: 1B-25, 1B-28, 1B-29.
08:34:08 5 At 9 MacArthur Place in Santa Anna, California, Special Agent
08:34:13 6 Lynelle Torikai seized the following items out of a search
08:34:16 7 warrant: 1B-124, 1B-127, 1B-146, 1B-148, 1B-150. And at 720
08:34:28 8 Olvey Lane, California, Special Agent Charles Adams seized the
08:34:31 9 following: 1B-144, 1B-145 and 1B-156.

08:34:38 10 By entering into this stipulation, none of the
08:34:41 11 defendants forfeit the right to object at trial to the relevance
08:34:43 12 of any exhibit. The foregoing stipulation of facts are true and
08:34:47 13 correct, and they're approved by the person signing below: Jose
08:34:51 14 Trevino, defendant, David Finn, counsel for defendant, Francisco
08:34:54 15 Colorado-Cessa, defendant, Michael DeGeurin, counsel for the
08:34:59 16 defendant, Fernando Solis-Garcia, defendant, Guy Womack, counsel
08:35:05 17 for Defendant, Eusevio Maldonado-Huitron, defendant, Richard
08:35:10 18 Esper, counsel for the defendant, and Jesus Maldonado-Huitron,
08:35:13 19 defendant, and Brent Mayr, counsel for defendant, and myself,
08:35:16 20 Douglas Gardner, assistant United States attorney.

08:35:18 21 THE COURT: And that is number what?

08:35:20 22 MR. GARDNER: This is No. 405, your Honor.

08:35:22 23 THE COURT: All right.

08:35:28 24 MR. GARDNER: Your Honor, based on that, the government
08:35:30 25 introduces the following items from those boxes. Government's

08:35:35 1 Exhibit 1, your Honor, does the Court want a brief description of
08:35:40 2 those items or just the numbers?

08:35:43 3 THE COURT: Well, let's see, we have 207 of them? No.
08:35:51 4 I don't recall -- I am sure that all counsel will tell the jury
08:35:58 5 which exhibit that they have emphasis on at the appropriate time
08:36:03 6 or use it the appropriate time. And since they're taking notes,
08:36:07 7 you can just read it into the record.

08:36:08 8 MR. GARDNER: Yes, sir, your Honor.

08:36:09 9 The government introduces the following exhibits:
08:36:11 10 Government's Exhibit 1, 2, 2A, 2B, 3, 4, 5, 6, 7, 8, 7B, 7C, 7D,
08:36:25 11 7E, 7F, 7G, Government's Exhibit 8A through G, Government's
08:36:34 12 Exhibit 9, Government's Exhibit 10, Government's Exhibit 11A
08:36:39 13 through F, Government's Exhibit 12, 13, 14, 15, 16, 17, 18, 19,
08:36:52 14 20, 22, 23, 24, 25, 26, 27A through F. 28E's already admitted,
08:37:07 15 your Honor. Twenty-nine, 30, 31A, 31B. Thirty-two is already in
08:37:15 16 evidence. Thirty-three, 34, 35, 36, 37, 38, Government's
08:37:25 17 Exhibits 38A through 38AA, 39, 39A through E, 40A and 40B, 41,
08:37:45 18 41A through E, 42, 43, 51A, 51B, 52, 54, 55A, B and C, 56, 58A
08:38:05 19 and B. 58C is in evidence. 58D, 59, 60A through E, 61, 62A and
08:38:18 20 B, 63, 64, 65A and B, 66, 67, 68, 69A and B, 70, 71, 72, 73, 74,
08:38:38 21 101, 102A through N, 103A and B, 105, 106A through E, 126, 127,
08:38:58 22 128A and B, 129, 130, 131, 132, 134, 135, 137, 138, 139, 140,
08:39:14 23 142, 142A and B, 143, 176, 177A through F, 178A and B, 179, 180,
08:39:29 24 181, 182, 183A through D, 201A and B, 202, 203, 206, 207, your
08:39:42 25 Honor.

08:39:43 1 THE COURT: No. 406?

08:39:48 2 MR. GARDNER: That was 40 -- 406 was the stipulation.

08:39:50 3 THE CLERK: 405.

08:39:53 4 MR. GARDNER: 405.

08:39:54 5 THE COURT: All right.

08:39:55 6 MR. FINN: Judge, excuse me, just for clarification, is

08:39:57 7 it 107 boxes, Mr. Gardner? Did I get the number right? 107?

08:40:04 8 MR. GARDNER: You're going to have to count. I didn't

08:40:06 9 count the on the stipulation. So whatever the stipulation has in

08:40:09 10 terms of number of boxes that your client signed, that's the

08:40:10 11 number of boxes that the items came from.

08:40:13 12 MR. FINN: Thank you.

08:40:16 13 MR. GARDNER: Your Honor, just in case I missed it, Ms.

08:40:18 14 Fernald pointed out to me 28A, B and D.

08:40:23 15 THE COURT: All right. Counsel, let me have you up

08:40:26 16 here.

08:40:36 17 (At the bench, on the record.)

08:40:41 18 THE COURT: I'm sure y'all are a whole lot more

08:40:51 19 familiar with all of these exhibits than I, but if there is

08:40:53 20 anybody that intends to use the exhibits extensively, it might be

08:40:59 21 helpful to put this in as a guide so that when the jury's

08:41:04 22 deliberating, they can go to it.

08:41:09 23 MS. FERNALD: There are some -- there's a few notes on

08:41:11 24 there that I saw, your Honor, that I probably need to take off,

08:41:14 25 like notes for us to link it to other pieces of evidence.

08:41:17 1 THE COURT: Okay.

08:41:17 2 MS. FERNALD: So if we could go back and redact that.

08:41:20 3 THE COURT: If you'll do that and then, show it, we

08:41:21 4 won't need it until --

08:41:23 5 MS. FERNALD: No editorials is what I'm trying to --

08:41:25 6 THE COURT: Right. Take that out and then, we'll mark

08:41:27 7 that as 405A and submit it, and we can tell the jury later then.

08:41:33 8 But we won't need that until the end of the evidence.

08:41:37 9 MS. FERNALD: All right. Thank you.

08:41:46 10 THE COURT: Members of the jury, I told you at the

08:41:47 11 beginning that you're fortunate you're going to have competent

08:41:50 12 lawyers in this case. These lawyers understand how to try

08:41:55 13 lawsuits and they understand the sacrifice of juries in coming

08:41:59 14 in. They also know what is admissible and what is not

08:42:05 15 admissible. The stipulation they've just entered has saved us

08:42:08 16 probably a day and a half of testimony of people coming in and

08:42:12 17 just proving up the documents, like the last two witnesses we

08:42:17 18 had, when there's really no dispute about it.

08:42:21 19 And so, it's evidence that these lawyers know what

08:42:24 20 they're doing. You may call your witness.

08:42:26 21 MR. GARDNER: Thank you, your Honor. The government

08:42:28 22 calls Hector Moreno.

08:42:49 23 (Witness sworn.)

08:43:21 24 THE COURT: I want you to tell us your full name and

08:43:33 25 spell your last name, please.

08:43:36 1 THE WITNESS: Hector Moreno, M-O-R-E-N-O.

08:43:47 2 THE COURT: You may proceed.

08:43:48 3 HECTOR MORENO, called by the Government, duly sworn.

08:43:48 4 DIRECT EXAMINATION

08:43:48 5 BY MR. GARDNER:

08:43:48 6 Q. Thank you, your Honor.

08:43:50 7 Mr. Moreno, you and I met before. Can you please turn

08:43:54 8 to the jury, introduce yourself, tell them how old you are?

08:44:05 9 A. Hector Moreno and I'm 35 years old.

08:44:11 10 Q. And do you know a person by the name of Alfonso or "Poncho"

08:44:16 11 Cuellar?

08:44:19 12 A. Yes.

08:44:20 13 Q. And how do you know him, sir?

08:44:27 14 A. I worked with him from 2007 to 2011.

08:44:29 15 Q. And when you say worked with him, what activities did that

08:44:33 16 consist of?

08:44:40 17 A. This drug dealing.

08:44:42 18 Q. Could you explain where that occurred?

08:44:53 19 A. In Piedras Negras and in Coahuila, 2007.

08:44:57 20 Q. And if you will, can you explain to the jury how much

08:45:00 21 narcotics you were moving into the United States with Mr.

08:45:03 22 Cuellar?

08:45:16 23 A. A lot of drugs, four or five tons, maybe more, cocaine.

08:45:22 24 Q. When you say four or five tons, what time span is that? Is

08:45:26 25 that per year or total?

08:45:35 1 A. A year.

08:45:37 2 Q. And how would you participate in the drugs crossing the

08:45:41 3 border? What specifically would you do?

08:46:00 4 A. By phone, I talked to the drivers, to my clients, to

08:46:06 5 Cuellar's clients, to Omar Trevino, Miguel Trevino-Morales.

08:46:09 6 Q. And do you know Miguel Trevino by another name?

08:46:17 7 A. Yes, "40," "Commander 40."

08:46:21 8 Q. And do you know Omar Trevino by another name?

08:46:26 9 A. Yes, "Commander 42."

08:46:28 10 Q. Could you pull up 335A? Do you recognize that individual on

08:46:36 11 the screen in front of you, sir?

08:46:42 12 A. Yes. That's "Commander 40."

08:46:45 13 Q. B, please. Do you recognize that person?

08:46:54 14 A. Omar Trevino, "Commander 42."

08:46:57 15 Q. How often would you see these two individuals while you were

08:46:59 16 working for Alfonso Cuellar?

08:47:17 17 A. Pretty regular, two or tree -- sometimes it was two or three

08:47:20 18 times a month. Then they would disappear for like four months.

08:47:24 19 And then, other times, it was like once or twice a week.

08:47:27 20 Q. You said earlier, you would interact with Alfonso Cuellar's

08:47:31 21 clients, but you also have clients of your own. Did I hear that

08:47:34 22 correctly?

08:47:48 23 A. My own clients, yes, I had my own clients. One.

08:47:51 24 Q. And who was that individual?

08:47:53 25 A. Jose Vasquez.

08:47:55 1 Q. And where was he located?

08:47:58 2 A. Dallas, Texas.

08:48:00 3 Q. Could you give the jury an idea of how much cocaine you were

08:48:03 4 sending him each month?

08:48:13 5 A. 800 kilos, a ton.

08:48:19 6 Q. Were you also responsible for receiving the moneys back into

08:48:22 7 Mexico from the United States from the sale?

08:48:30 8 A. Yes.

08:48:31 9 Q. And how much money would you receive in exchange for the 800

08:48:35 10 kilos to a ton you would send each month?

08:48:52 11 A. \$4 million every ten days.

08:48:56 12 Q. When you got the money back into Mexico, what denominations

08:49:00 13 was it in?

08:49:17 14 A. All kinds of bills but to the -- to "40's" and "42's"

08:49:21 15 accountants, you only gave them bills of 20s, 50s and 100.

08:49:26 16 Q. Why was that?

08:49:27 17 A. Those were the rules. If there were \$5 and \$10 bills, you

08:49:39 18 had to exchange them for larger bills and pay them.

08:49:42 19 Q. And was there an accounting system between your -- yours and

08:49:47 20 Alfonso Cuellar's business and "40" and "42"?

08:50:05 21 A. Yeah. We paid everything to an accountant, to "Cuno," "40"

08:50:10 22 and "42's" accountant.

08:50:13 23 Q. And, Mr. Moreno, how did you come into the United States?

08:50:20 24 A. In March of 2011, there was a lot of trouble going on over

08:50:37 25 there in Coahuila, and I asked for help from the United States

08:50:39 1 government.

08:50:40 2 Q. And when you say trouble, explain that, please.

08:50:45 3 MR. DEGEURIN: Excuse me, your Honor. May we approach?

08:50:50 4 Limine.

08:50:56 5 (At the bench, on the record.)

08:51:07 6 MR. DEGEURIN: Your Honor, we had the benefit of some

08:51:10 7 Jencks material testimony before where he has testified about

08:51:15 8 killings, and tortures, and things like this in Mexico. And I

08:51:20 9 didn't know if he was going into that.

08:51:21 10 THE COURT: Yeah.

08:51:23 11 MR. GARDNER: I just wasn't sure why he was coming into
08:51:24 12 the United States.

08:51:25 13 MR. DEGEURIN: But that "why" is so broad that he might
08:51:28 14 say --

08:51:30 15 MR. GARDNER: Well, my anticipation, he said he was
08:51:31 16 scared of getting killed by "40."

08:51:35 17 MR. DEGEURIN: If that's as far as it goes, fine, but
08:51:37 18 he starts talking about families being killed.

08:51:40 19 MR. GARDNER: I'll redirect that.

08:51:46 20 MR. DEGEURIN: Okay.

08:51:50 21 Q. (BY MR. GARDNER) Mr. Moreno, when you say there was
08:52:01 22 problems, how did the problems relate specifically to you?

08:52:15 23 A. Lots of deaths. They even started killing families in
08:52:29 24 Allende, and Piedras Negras, and Musquiz and Sabinas. They also
08:52:33 25 wanted to kill me.

08:52:34 1 Q. And now, the jury's already heard from Mr. Cuellar. Why
08:52:38 2 would they want to kill you?

08:52:46 3 A. Well, there were a lot of losses from November, December,
08:53:20 4 January 2010, 2011. There were also a lot of seizures. They
08:53:25 5 were upset that we didn't have the clients to be moving that kind
08:53:29 6 of stuff and -- or those kinds of amounts. And they were upset
08:53:35 7 and they thought we had something to do with these losses.

08:53:39 8 Q. So you said earlier, you contacted the United States. Were
08:53:42 9 you under indictment in the United States at that time facing
08:53:45 10 charges?

08:53:54 11 A. No.

08:53:55 12 Q. Do you know if you're facing any charges in the state of
08:53:57 13 Texas or any other states in the state level?

08:54:08 14 A. No.

08:54:09 15 Q. You contacted the federal government and they agreed to
08:54:12 16 bring you across. Can you explain to the jury what your
08:54:16 17 understanding of your part of that agreement is?

08:54:41 18 A. To give all the information I have about the Zetas, about
08:54:46 19 "40" and "42," how their operations worked both in the United
08:54:49 20 States and in Mexico.

08:54:50 21 Q. And was it "40" and "42" the one who wanted to kill you?

08:54:56 22 A. Yes.

08:54:58 23 Q. And were there other members of your family that also came
08:55:01 24 across with you?

08:55:09 25 A. Somewhat later, yes.

08:55:11 1 Q. And did that include your brothers and other family members?

08:55:16 2 A. Yes.

08:55:17 3 Q. And what is your and their immigration status in the U.S.

08:55:21 4 currently?

08:55:30 5 A. We have permission to be here.

08:55:33 6 Q. Have you testified before for the federal government in

08:55:35 7 another case?

08:55:41 8 A. Yes.

08:55:42 9 Q. Was that up in the Eastern District of Texas?

08:55:49 10 A. It was in Texas. Yes.

08:55:53 11 Q. Were you aware of "40" sending drug money to the United

08:55:57 12 States for the purpose of quarter horses?

08:56:07 13 A. Yes.

08:56:09 14 Q. Do you know if "40" was expecting to get any money back from

08:56:12 15 the quarter horses back into Mexico?

08:56:30 16 A. He said that it was a good business and that they were going

08:56:33 17 to get clean money out of this business.

08:56:35 18 Q. Are you familiar with a horse called Tempting Dash?

08:56:44 19 A. Yeah. I know.

08:56:45 20 Q. And how do you know about Tempting Dash?

08:57:23 21 A. That was a horse. That was a horse that had run in Laredo

08:57:26 22 under the name of Huesos, and then, they brought him into the

08:57:30 23 United States and they didn't expect much out of him, but he did

08:57:34 24 -- he made some good times. And it was "40's" horse, but Ramiro

08:57:38 25 had bought him, but when he won, that's when they changed the

08:57:41 1 ownership and changed the name.

08:57:47 2 Q. You said the word was "Huesos." Would that mean bones in

08:57:51 3 Spanish?

08:57:56 4 A. Yes.

08:57:57 5 Q. Why do they call it bones?

08:58:02 6 A. Because he was a skinny horse.

08:58:05 7 Q. So then, you mentioned they decided to change the name.

08:58:09 8 Were you present when they transferred the ownership of that

08:58:12 9 horse?

08:58:18 10 A. I heard --

08:58:28 11 MS. WILLIAMS: Objection. Nonresponsive.

08:58:32 12 THE COURT: Sustain the objection. Rephrase.

08:58:38 13 Q. (BY MR. GARDNER) Were you aware of how the horse got

08:58:40 14 transferred?

08:58:45 15 A. Yes.

08:58:46 16 Q. And how did that horse get transferred?

08:58:58 17 A. Through "Poncho's" wife, the notary.

08:59:02 18 MS. WILLIAMS: I object to hearsay.

08:59:04 19 MR. GARDNER: Your Honor, I believe it's a

08:59:05 20 coconspirator hearsay statement in furtherance of the conspiracy.

08:59:07 21 THE COURT: The objection is overruled.

08:59:10 22 A. She was the one that was gathering all the papers to do the

08:59:12 23 transfer.

08:59:13 24 Q. (BY MR. GARDNER) And do you know who the horse was

08:59:15 25 transferred into?

08:59:25 1 A. The brother of "40" or Miguel Trevino.

08:59:29 2 Q. And do you know why they transferred the ownership?

08:59:45 3 A. Because it was a good horse, it was a good future for that

08:59:48 4 horse, and he didn't want it in anyone else's name where he

08:59:50 5 didn't have control.

08:59:51 6 Q. And when you say "he," who are you referring to?

08:59:58 7 A. Miguel Trevino.

09:00:01 8 Q. Other than Tempting Dash, were you aware if Miguel Trevino

09:00:05 9 bought other horses in the United States?

09:00:17 10 A. Yes. Yeah, he bought a lot of horses.

09:00:20 11 Q. Were these horses purchased at auctions or private sales?

09:00:36 12 A. In both. In both; in auctions and private.

09:00:40 13 Q. And how would they keep track of these auctions? I'm sorry,

09:00:45 14 let me back up.

09:00:45 15 How would "40" keep track of these auctions?

09:01:03 16 A. Through internet. Internet, Carlos Nayen would come to buy

09:01:07 17 the horses and BlackBerry.

09:01:09 18 Q. And so, when you say the internet, were you present during

09:01:14 19 any of these internet-watching sessions?

09:01:21 20 A. Yes.

09:01:22 21 Q. And so, could you explain to the jury what was happening?

09:01:27 22 For example, when "40" wanted a horse, how he would communicate

09:01:32 23 with Carlos Nayen?

09:02:05 24 A. Well, before any auction, they would study the pedigree of

09:02:08 25 the horses, and then, they would tell him -- well, Carlos Nayen

09:02:12 1 already knew what the price was, but if the price was going above
09:02:15 2 that, then they would contact him through BlackBerry to tell him
09:02:19 3 how much further up to go.

09:02:21 4 Q. And so, you may have said this already, but so who was
09:02:28 5 present for the Zetas at the auctions in the U.S.? Is that
09:02:32 6 Carlos Nayen?

09:02:42 7 A. Carlos Nayen.

09:02:45 8 Q. Do you recognize that person, Mr. Moreno?

09:02:53 9 A. Yes. That's Carlos Nayen.

09:02:54 10 Q. That's 335E, your Honor.

09:03:03 11 To your knowledge, how many horses did "40" buy in the
09:03:08 12 U.S. -- let's just go by year -- in 2008?

09:03:34 13 A. In 2008? I had been working with "Poncho" for about six or
09:03:40 14 seven months, and they bought about 60 horses.

09:03:45 15 MR. FINN: I'm sorry, Judge, I didn't understand that.

09:03:46 16 Q. (BY MR. GARDNER) It was 60?

09:03:49 17 A. No. Forty.

09:03:50 18 Q. Forty. And in 2009, how many horses, to your knowledge, did
09:04:00 19 "40" purchase?

09:04:12 20 A. He bought some 70 or 80, because that's where he started
09:04:23 21 buying mares to breed.

09:04:25 22 Q. What about 2010?

09:04:42 23 A. In 2010, at the auctions, he bought less, but that's when he
09:04:48 24 was buying horses in mares for breeding and expensive horses.

09:04:54 25 Q. And when did you come across the border in 2011?

09:05:02 1 A. March of 2011.

09:05:04 2 Q. So were you aware of how many horses he bought in January

09:05:09 3 through March of 2011?

09:05:13 4 MR. DEGEURIN: Excuse me. I have an objection to make.

09:05:28 5 That would no longer be an exception of the coconspirator.

09:05:33 6 MR. GARDNER: I said from January to March 2011, when

09:05:35 7 he turned himself in. He turned himself in in March 2011. Thank

09:05:40 8 you.

09:05:41 9 MR. DEGEURIN: Okay.

09:05:42 10 MR. GARDNER: Sorry.

09:05:43 11 MR. DEGEURIN: I don't think I heard that.

09:05:44 12 Q. (BY MR. GARDNER) Let me repeat the question, Mr. Moreno.

09:05:50 13 My understanding from your testimony is that in March

09:05:52 14 of 2011, you turned yourself in. Is that your testimony?

09:06:03 15 A. Yes.

09:06:03 16 Q. Okay. So all I want to know is, what you were aware of in

09:06:06 17 January, February and March, before you turned yourself in, in

09:06:10 18 terms of the number of horses "40" bought during that period.

09:06:35 19 A. The auctions start in September. So would have been from

09:06:39 20 September 2010, September, October, November, December.

09:06:42 21 Q. Okay. Now, were you familiar with a horse called Mr.

09:06:47 22 Piloto?

09:06:52 23 A. Yes.

09:06:52 24 Q. And were you familiar with the circumstances surrounding the

09:06:56 25 fixing of that race?

09:07:09 1 A. Yes.

09:07:10 2 Q. And how do you know that race was fixed?

09:07:21 3 A. Well, because during all the trial races, Mr. Piloto had the

09:08:00 4 lowest time. He was ninth or tenth of the tenth. And then, at

09:08:05 5 the end of the race, Miguel Trevino was really happy because

09:08:08 6 Carlos Nayen had managed to buy off all the starters, the gates.

09:08:15 7 Paid eleven people \$110,000.

09:08:17 8 Q. Were you present when "40" was involved in that negotiation

09:08:21 9 with Carlos Nayen?

09:08:27 10 A. Yes. He ordered "Poncho" to send \$110,000 to Ruidoso.

09:08:37 11 Q. And how was that \$110,000 supposed to be used?

09:08:50 12 A. To pay the ten people at the gates and then, the one who

09:08:54 13 handled the gates.

09:08:56 14 Q. Now, was "42," Omar Trevino, involved in this payment of the

09:09:00 15 bribe?

09:09:10 16 A. Both of them were there. Both of them watching the races

09:09:13 17 and the finals. Both of them were there.

09:09:14 18 Q. And who was sent to deliver the bribe money?

09:09:28 19 A. It was a guy from Dallas and then, Gerardo Mata took it to

09:09:33 20 Ruidoso.

09:09:33 21 Q. And why was -- and what was Gerardo Mata's relationship to

09:09:40 22 "Poncho" Cuellar?

09:09:46 23 A. He was either his brother-in-law or his ex-brother-in-law.

09:09:49 24 Q. And why was he sent?

09:09:51 25 A. Because he worked with us transporting money to Mexico.

09:10:04 1 Q. Now, did you ever handle any of the expenses for the
09:10:08 2 payments of the horses?

09:10:36 3 A. Yes.

09:10:37 4 MS. WILLIAMS: Objection. Nonresponsive. Did you
09:10:45 5 ever?

09:10:45 6 THE COURT: You may follow up.

09:10:47 7 MR. GARDNER: Thank you.

09:10:49 8 THE COURT: Members of the jury, what that was is that
09:10:51 9 it was a question that called for a "Yes" or "No." He said
09:10:55 10 "Yes," and then, he added on to it, so it's nonresponsive. You
09:10:58 11 may proceed.

09:10:59 12 Q. (BY MR. GARDNER) So, yes, you did handle horse expenses in
09:11:05 13 Mexico?

09:11:11 14 A. Yes.

09:11:12 15 Q. The followup question is, what were those horse expenses?

09:11:36 16 A. It was vet bills, jockeys, transportation of Carlos Nayen,
09:11:42 17 flights for Carlos Nayen, boarding, feed, shoeing. The payment
09:11:50 18 of the nomination fees for the futurities.

09:11:53 19 Q. Race fees, race entry fees?

09:11:57 20 A. Yes.

09:11:58 21 Q. Do you know a person named "Yo Yo"?

09:12:03 22 A. Yes.

09:12:03 23 Q. Who is "Yo Yo"?

09:12:05 24 A. He was like Carlos Nayen's secretary or assistant in Nuevo
09:12:15 25 Laredo.

09:12:15 1 Q. Did you ever know his real name or his first name?

09:12:22 2 A. No.

09:12:24 3 Q. Did this person you knew as "Yo Yo" also move cocaine?

09:12:40 4 A. That started after Mr. Piloto won because as a prize, they

09:12:49 5 gave Carlos Nayen 10, 10 kilos.

09:12:53 6 Q. And "Yo Yo," was he responsible for moving that?

09:12:57 7 A. Yes.

09:12:59 8 Q. When you say 10 kilos, was that one time, 10 kilos, or did

09:13:05 9 that occur -- or somewhere on a regular basis?

09:13:31 10 A. The first time, it was 10 kilos. Fifteen kilos, a second

09:13:36 11 time; third time, 25 kilos; fourth time, 25 kilos; and then, the

09:13:41 12 fifth time, there were 25 kilos, but that was March of 2011.

09:13:45 13 Those had stayed in Mexico because those weren't -- we weren't

09:13:49 14 able to move those.

09:13:50 15 Q. And were you responsible for giving money for horse expenses

09:13:53 16 to "Yo Yo"?

09:14:00 17 A. Yes.

09:14:01 18 Q. And how did you pay him, in cash?

09:14:06 19 A. Cash.

09:14:07 20 Q. Where did that cash come from?

09:14:19 21 A. From the sales of "40" and "42's" kilos here in the U.S.

09:14:24 22 Q. And how did "Yo Yo" get the money across the border into the

09:14:41 23 United States?

09:14:41 24 A. Through exchange houses and then, several people that he

09:14:45 25 sent money to in Laredo, Texas.

09:14:48 1 Q. I'm sorry. Can you repeat that last answer?

09:15:01 2 A. Through the exchange houses and he sent people to Laredo,

09:15:04 3 Texas to banks to deposit money.

09:15:08 4 Q. How were the expenses tracked?

09:15:29 5 A. They were sent either Carlos Nayen, or if he couldn't, then

09:15:34 6 "Yo Yo" would. It lists specifying the expenses, "Poncho" would

09:15:40 7 take them to "40" and "42," and they would authorize the

09:15:43 8 payments.

09:15:44 9 Q. Now, Mr. Moreno, I'm showing you Government's Exhibit 303.

09:15:49 10 Do you recognize that, sir?

09:15:51 11 A. Yes.

09:15:52 12 Q. Was this one of the lists that you were talking about?

09:15:56 13 A. Yes. Those are it.

09:15:58 14 Q. And did you, in fact, provide this list to the government

09:16:01 15 after coming across the border?

09:16:08 16 A. That's right.

09:16:10 17 Q. Your Honor, I'd offer Government's Exhibit 303. It also has

09:16:14 18 a certified translation by a certified interpreter on the back of

09:16:18 19 it.

09:16:23 20 THE COURT: Hearing no objection, it is admitted.

09:16:28 21 MR. ESPER: I have no objection.

09:17:09 22 Q. (BY MR. GARDNER) Mr. Moreno, while they're handing around

09:17:11 23 that document, do you know an individual by the name of "Pancho"

09:17:14 24 Colorado? Let me stop you there.

09:17:44 25 A. I heard --

09:17:45 1 Q. Let me stop you.

09:17:49 2 The question was -- and I just want a simple "Yes" or

09:17:53 3 "No" on this. We'll get to it. Do you know "Pancho" Colorado?

09:17:56 4 A. Yeah.

09:17:57 5 Q. So before, everything we've talked before, we're talking

09:18:00 6 "Poncho" Cuellar?

09:18:07 7 A. Yes.

09:18:12 8 Q. I'm showing you Government's Exhibit 303. I just want to

09:18:24 9 point out a couple of things. So I want you, Mr. Moreno, to read

09:18:31 10 this part in Spanish. And then, I'll flip it over so the jury

09:18:39 11 can read it in English.

09:18:58 12 All right. So I want you to read this part where my

09:19:01 13 finger is, Mr. Moreno.

09:19:14 14 A. I sent for feed, food, diesel, boxes of syringes, one week.

09:19:24 15 Q. When you talked about "Yo Yo," is that the "Yo Yo" you

09:19:28 16 referred to?

09:19:32 17 A. Yes.

09:19:33 18 Q. And "Yo Yo's" getting 500. Is that in dollars or in pesos?

09:19:41 19 A. Dollars.

09:19:47 20 Q. And then, when it says, un pony a Elgin for \$2,500, what was

09:19:57 21 that expense for, if you recall?

09:20:11 22 A. A pony is a horse, a horse that they take along with the

09:20:20 23 race horse out onto the track to work him.

09:20:23 24 Q. So that was an expense for the training of the horses?

09:20:32 25 A. Yes. That's right.

09:20:34 1 Q. And who is Jose Luis Canales?

09:20:42 2 A. I -- I don't have any idea.

09:20:46 3 Q. And are you familiar with this individual, Paul Jones?

09:20:58 4 A. Yes. He's a horse trainer.

09:21:00 5 Q. And are you familiar with this individual, Tyler Graham?

09:21:10 6 A. Yes. He's the -- he's a vet.

09:21:13 7 Q. Now, was there ever a time when horse expenses were directed

09:21:29 8 from the U.S. to people into the United States directly?

09:21:43 9 A. Yes.

09:21:45 10 Q. And how did that occur?

09:21:58 11 A. Once, we sent stuff to Oklahoma to pay for a mare.

09:22:05 12 Q. And how did that occur?

09:22:19 13 A. Through Jose Vasquez. Jose Vasquez's dad took the money to

09:22:25 14 Oklahoma and saw the person we were told to see there.

09:22:30 15 Q. And do you know who gained control of that horse?

09:22:40 16 A. No. No, I don't know.

09:22:42 17 Q. When "40" bought horses, did he ever list them in fake

09:22:46 18 companies in the United States?

09:23:23 19 A. There were several. One futurity that was -- it was here in

09:23:30 20 Texas and "40 Cuarenta" and Tamaulipas Boy, several of his horses

09:23:36 21 run under different registrations.

09:23:39 22 Q. And do you recall any of those names that they were under?

09:23:58 23 A. No. No. I don't remember. I mean, it was three years ago.

09:24:08 24 Q. If I were to --

09:24:10 25 A. I remember the horses' names.

09:24:11 1 Q. Well, let's start with the horses. Do you remember a horse
09:24:18 2 by the name of Juanita Mi Amor?

09:24:32 3 A. No. That's when there was trouble and we didn't -- we
09:24:37 4 wouldn't -- we didn't have anything to do with the moving of
09:24:39 5 those horses.

09:24:41 6 Q. So what horses do you remember?

09:24:50 7 A. Blues Ferrari, Mr. Piloto, Rolls Royce, Harry, Tamaulipas
09:25:40 8 Boy, Jaguar, Futurity My Honor, Snowy Cartel, Forty XL, there
09:25:46 9 were a lot. There were a lot of horses.

09:25:50 10 Q. Okay. When you say Forty XL.

09:26:03 11 A. Yes.

09:26:06 12 Q. Are you aware what this number is in Roman numerals?

09:26:15 13 A. Yes. Forty.

09:26:21 14 Q. Can you name any of the businesses that "40" used to send
09:26:32 15 money to in the United States?

09:26:43 16 A. I don't understand.

09:26:45 17 Q. If I were to say the name Carmina, LLC, does that refresh
09:26:51 18 your recollection?

09:26:54 19 A. Yeah. There's Carmina, Garcia, Tremor Enterprises, Broyers
09:27:17 20 (phonetic). Broyers is another name.

09:27:20 21 Q. Now, you talked about a horse called Blues Ferrari. Were
09:27:24 22 you aware of how he was sold at auction?

09:27:55 23 A. He was run at Alamitos. He didn't do -- he didn't qualify
09:28:02 24 and then, after that, he didn't do so well. And he said that he
09:28:06 25 was going to sell him to be able to buy some more other horses.

09:28:10 1 Q. Who was going to sell him?

09:28:19 2 A. It was going to be sold. It was going to be Tremor

09:28:26 3 Enterprises had him and he was going to be -- he would be sold

09:28:29 4 and then, it would be taken to "40."

09:28:32 5 Q. It being Blues Ferrari taken to "40." I'm sorry. When you

09:28:39 6 say "it," are you referring to Blues Ferrari?

09:28:50 7 A. Blues Ferrari.

09:28:52 8 Q. So earlier, when I asked you if you were talking about

09:28:56 9 "Poncho" Cuellar or "Pancho" Colorado, let's talk about "Pancho"

09:29:01 10 Colorado. Do you see him in the courtroom today?

09:29:14 11 A. Yes.

09:29:14 12 Q. Could you describe an article of clothing that he's wearing?

09:29:21 13 A. Gray suit with a pink tie.

09:29:27 14 Q. This gentleman back here, the one in the glasses?

09:29:31 15 A. Yes.

09:29:32 16 Q. Your Honor, may the record reflect the witness has

09:29:34 17 identified the defendant?

09:29:35 18 THE COURT: So reflects.

09:29:37 19 Q. (BY MR. GARDNER) How do you know "Pancho" Colorado?

09:30:00 20 A. In 2009, when they were going to be running the gates at the

09:30:26 21 La Illusion Ranch, "40" and "42" colts were there. And then,

09:30:31 22 Carlos Nayen also had "Pancho" Colorado's horses. "Poncho" took

09:30:35 23 some of his, Celso took some of his. They did seven runs. They

09:30:41 24 ran the gate seven times and whoever one -- it was to see how

09:30:44 25 they ran, and then, whoever won was going to win 20 to \$30,000.

09:30:50 1 Q. And did you see the Defendant "Pancho" Colorado talking with
09:30:55 2 "40" or "42"?

09:31:07 3 A. Yeah. He had a red flower shirt on, straw hat and a cigar.

09:31:14 4 Q. Did you always see "Pancho" Colorado with a cigar?

09:31:24 5 A. Just when I saw him there at those races, yes.

09:31:27 6 Q. And approximately how many races would you say "Pancho"
09:31:32 7 Colorado was in attendance?

09:31:43 8 A. I only saw him on that occasion in Morelos, Coahuila at the
09:31:48 9 La Ilusion track.

09:31:50 10 Q. Do you know what he did for a living? What his business
09:31:58 11 was?

09:32:00 12 A. He was -- had lots of money. He was from Veracruz, had to
09:32:06 13 do with oil.

09:32:08 14 Q. Did "40" ever talk about doing horse business with "Pancho"
09:32:18 15 Colorado?

09:32:19 16 A. Yeah. They were asking how he was going to pay for those
09:32:37 17 expensive horses at the auction, and he said that through Carlos
09:32:42 18 Nayen that "Pancho" Colorado had said that he would pay for them
09:32:45 19 at the auction.

09:32:46 20 Q. And so, how did the orders flow? I mean, who to who to who
09:32:51 21 to get to the purchase?

09:33:07 22 A. "Cuarenta" would pay "Pancho" and "Pancho" would pay here in
09:33:11 23 the U.S.

09:33:12 24 Q. And do you know how "40" would pay "Pancho" Colorado?

09:33:22 25 A. No. I don't know.

09:33:25 1 Q. Did "40" have any money from anything other than the sale of
09:33:29 2 narcotics?

09:33:41 3 A. I don't think so.

09:33:44 4 Q. Did you watch any races with "40" over the internet?

09:33:55 5 A. Yes. Yes, I saw it.

09:33:57 6 Q. Were those races also watched over the internet?

09:34:04 7 A. Yes.

09:34:04 8 Q. And who was present at those watching sessions?

09:34:28 9 Okay. I want to make sure it's clear. When you say
09:34:29 10 "Poncho," is that "Poncho" Cuellar?

09:34:32 11 A. "Poncho" Cuellar. So "40," "42," Lazcano, 2000, Carlitos,
09:34:37 12 or Carlos Nayen, "Poncho" and myself. "Poncho" Cuellar.

09:34:42 13 Q. And how did you log onto the internet?

09:35:05 14 A. We would go into Cool -- Cool Living and we would be going
09:35:11 15 in through Petro Servicios at -- or Petro Servicio ADT and the
09:35:19 16 password was "Pancho" Colorado -- Francisco Colorado.

09:35:26 17 Q. But is it your testimony that "Pancho" Colorado wasn't
09:35:32 18 present during the watching of that race?

09:35:42 19 A. That's right.

09:35:43 20 Q. Do you know "Chevo" Huitron?

09:35:49 21 A. Yes. I do know him.

09:35:50 22 Q. Okay. And how do you know him?

09:36:24 23 A. Because he went two or three times to collect the money that
09:36:29 24 he was owed for training. "Poncho" Cuellar also had some horses
09:36:34 25 with him, so "Poncho" also paid him. We also sent him some

09:36:37 1 undocumented workers. We had five undocumenteds that we crossed

09:36:42 2 over through Acuna to go work with the horses.

09:36:46 3 Q. When you say undocumented workers to work with the horses,

09:36:50 4 were they working for "Chevo"?

09:37:00 5 A. No. They worked for "40."

09:37:03 6 Q. And was "Chevo" working for "40"?

09:37:10 7 A. Yeah, because he had "Cuarentas'" horses.

09:37:14 8 Q. Did you ever see "Cuarenta" and "Chevo" together in Mexico?

09:37:23 9 A. Yeah. Monclova.

09:37:24 10 Q. What interaction did they have?

09:37:35 11 A. No. They were talking at a table and no one could draw

09:37:39 12 near.

09:37:39 13 Q. So you didn't hear the substance of the conversation?

09:37:44 14 A. No.

09:37:46 15 Q. Did "40" ever talk about "Chevo"?

09:37:50 16 A. Yes.

09:37:51 17 Q. And what discussions did "40" have with you or in your

09:37:56 18 presence regarding "Chevo" Huitron?

09:38:30 19 A. No. It's just that "Chevo" had Tempting Dash. And then,

09:38:35 20 "Chevo" had some trouble because they pulled his licensing. He

09:38:37 21 couldn't go onto the tracks, and so, he was going under another

09:38:40 22 name. So then, he quit sending his good horses to him and would

09:38:43 23 send them to other trainers, Adan Farias.

09:38:48 24 Q. Were you present at a -- did you have dinner with "Chevo"

09:38:55 25 and "Poncho" Cuellar on one occasion in a town called Nava in

09:38:59 1 Mexico?

09:39:08 2 A. Yes.

09:39:09 3 Q. Do you recall the name of the restaurant where that was?

09:39:13 4 A. Maria Isabel.

09:39:18 5 Q. And where is that?

09:39:21 6 A. On the Highway 57 in the segment for Morelos.

09:39:31 7 Q. And who else was present at that dinner?

09:39:46 8 A. Me, "Poncho," I think Raul Guadalajara was also there, and

09:39:53 9 "Chevo" Huitron.

09:39:54 10 Q. And what was discussed at that dinner?

09:40:09 11 A. The horses he had for "40," for "Poncho," how they were

09:40:14 12 doing, and I think we paid him \$40,000. I think it was 40,000.

09:40:19 13 Q. Do you know "Chevo's" brother Jesus Huitron?

09:40:25 14 A. No.

09:40:27 15 Q. Do you know or have ever met "40's" brother Jose Trevino?

09:40:36 16 A. Yeah. I saw him on two occasions.

09:40:38 17 Q. Can you describe those -- the first occasion in which you

09:40:41 18 saw him to the Court?

09:41:18 19 A. First time I saw him, he was with Ramiro Villarreal, he was

09:41:24 20 in a white Jetta. It was to go through the denominations in

09:41:29 21 California to see who was going to be at what gate, which horses

09:41:31 22 they were going to run with "40." And then, the second occasion

09:41:33 23 is when he took him a horse like a trophy.

09:41:37 24 Q. Okay. Let's start with the first occasion. Do you remember

09:41:41 25 the year in which that occurred?

09:41:52 1 A. That was in 2010.

09:41:55 2 Q. And do you remember the year of the second occasion?

09:42:09 3 A. 2010, it was November, December.

09:42:15 4 Q. And I believe you said Jose Trevino gave a trophy to "40."

09:42:22 5 Can you explain that?

09:42:35 6 A. Yes. It was for having bought -- for having spent the most

09:42:39 7 money in buying horses in Ruidoso.

09:42:42 8 Q. For 2010?

09:42:47 9 A. Yes. That was after Mr. Piloto won because he also took the

09:42:54 10 belt buckle.

09:42:55 11 Q. And what was the belt buckle for?

09:43:01 12 A. It was because Mr. Piloto had won the All American.

09:43:08 13 Q. The last individual I'd like to ask you about, do you know

09:43:11 14 Mr. Fernando Garcia, sitting at the end of the table?

09:43:20 15 A. No. I don't know him.

09:43:21 16 Q. May I have one moment, your Honor?

09:43:34 17 Now, you mentioned Adan Farias once. Did he ever

09:43:38 18 travel to Mexico?

09:43:44 19 A. Yes. On one occasion.

09:43:46 20 Q. Okay. Could you explain that to the jury, please?

09:44:21 21 A. Yeah. Came to get him in San Antonio and I took him down to

09:44:26 22 "Poncho" Cuellar's stables in Piedras Negras. "40" and "42" came

09:44:31 23 by. They went over to a lot of ranches to look at different

09:44:33 24 colts, then he came back. He was really happy he was going to be

09:44:38 25 getting 30 horses to train and that they were going to give him

09:44:41 1 some more to buy to be able to train.

09:44:45 2 Q. Now, I asked you about a horse earlier called Blues Ferrari.

09:44:49 3 Do you recall a horse named Snowy Cartel?

09:45:00 4 A. Yes.

09:45:00 5 Q. Could you tell me about that horse, please?

09:45:28 6 A. She was a horse that belonged to Carlitos. Not Carlitos

09:45:33 7 Nayen but Commander Carlitos and they had him -- they owned her

09:45:37 8 between the two of them. They brought her over here to the U.S.

09:45:40 9 She did really well and he wanted to buy Commander Carlitos out

09:45:45 10 to then start breeding her.

09:45:46 11 Q. And when you say "he," are you referring to "40"?

09:45:52 12 A. Yes. "40."

09:45:53 13 Q. And do you know who -- under whose name A Snowy Cartel ran

09:45:58 14 in the United States?

09:46:16 15 A. No. I don't remember. I did see that race several times,

09:46:20 16 both live and in repetition. But I don't remember whose name she

09:46:24 17 was under.

09:46:25 18 Q. And we talked a little bit about the money going for the

09:46:28 19 horses. Do you recall "42" asking you to make sure you sent

09:46:33 20 someone clean to deliver the money?

09:46:50 21 A. Yes.

09:46:51 22 Q. And who said that?

09:46:59 23 A. "42," Omar Trevino.

09:47:01 24 Q. And why did he say that?

09:47:09 25 A. Because it was his brother who was going to be receiving the

09:47:12 1 money and that we should send someone we trusted.

09:47:14 2 Q. Your Honor, I'll pass the witness.

09:47:23 3 THE COURT: Mr. Finn.

09:47:25 4 MR. FINN: Your Honor, Ms. Williams will be doing the

09:47:28 5 cross. Thank you.

09:47:28 6 THE COURT: Yes.

09:47:33 7 CROSS-EXAMINATION

09:47:33 8 BY MS. WILLIAMS:

09:47:40 9 Q. Mr. Moreno, when you decided to come to the United States,

09:47:43 10 how did you accomplish that?

09:47:52 11 A. Through the attorney and the people who are in charge of

09:48:02 12 that. I don't know who it is. The prosecutor.

09:48:04 13 Q. Who's your attorney?

09:48:09 14 A. An attorney from Dallas.

09:48:10 15 Q. Is his name Frank Perez?

09:48:12 16 A. Yes.

09:48:13 17 Q. So you called Frank Perez and told him you wanted to come to

09:48:19 18 the United States and he needed to do what it took to make that

09:48:23 19 happen?

09:48:32 20 A. That's right.

09:48:33 21 Q. Did you call him while you were still in Mexico?

09:48:37 22 A. Yes. From Monterrey, Mexico.

09:48:39 23 Q. How did you get his number?

09:48:44 24 A. He was Jose Vasquez's attorney.

09:48:53 25 Q. And then, did you later testify against Jose Vasquez? I'm

09:49:13 1 sorry, that's a "Yes" or "No" question. Did you testify against
09:49:16 2 Jose Vasquez? "Yes" or "No"?

09:49:27 3 A. In a court or with someone in authority? What do you mean?

09:49:33 4 Q. Do you think you testified against Jose Vasquez or not?

09:49:38 5 A. Yes.

09:49:39 6 Q. All right. So this attorney Frank Perez made some sort of
09:49:46 7 arrangements with the government. How long did that take?

09:49:49 8 Months? Weeks?

09:50:07 9 A. Two weeks to three weeks. Between two and three weeks.

09:50:12 10 Q. And so, when you came to the United States, where did you
09:50:14 11 go?

09:50:20 12 A. To Dallas, Texas.

09:50:21 13 Q. And did they have a place for you to stay there?

09:50:28 14 A. No.

09:50:28 15 Q. So where were you living?

09:50:33 16 A. In a hotel.

09:50:34 17 Q. Who paid for that hotel?

09:50:36 18 A. I paid for it.

09:50:37 19 Q. And then, you started meeting with the government.

09:50:45 20 A. Yes.

09:50:45 21 Q. Did the governmental allow you in this arrangement to bring
09:50:51 22 some money with you?

09:51:09 23 A. I didn't bring any money because "40," "42" destroyed or
09:51:14 24 seized all of it; and because of this, they killed 2, 300 people
09:51:21 25 in Allende, Coahuila.

09:51:24 1 Q. So how did you pay for the hotel?

09:51:27 2 A. Through my family.

09:51:29 3 Q. Your family loaned you money.

09:51:32 4 A. Yes.

09:51:32 5 Q. So when you came over, did you bring -- you're married.

09:51:39 6 A. Yes. I'm married.

09:51:40 7 Q. And you have two children?

09:51:42 8 A. Yes.

09:51:44 9 Q. Young children?

09:51:46 10 A. Yes.

09:51:46 11 Q. And they came with you?

09:51:52 12 A. Two weeks later.

09:51:54 13 Q. But they're here now with you?

09:51:59 14 A. They're not with me. They are here in the United States.

09:52:05 15 Q. But they don't live with you?

09:52:06 16 A. No.

09:52:08 17 Q. And how many times have you met with the government since

09:52:18 18 you came to the United States?

09:52:26 19 A. With the government?

09:52:28 20 Q. Yes. With the prosecutor, or police officer, an FBI, a DEA

09:52:32 21 agent.

09:52:40 22 A. A lot of times. I don't have any idea.

09:52:42 23 Q. A hundred times?

09:52:45 24 A. No.

09:52:46 25 Q. Fifty times?

09:52:49 1 A. Maybe.

09:52:50 2 Q. And do you have some sort of written agreement with the

09:52:53 3 government?

09:53:01 4 A. My attorney must have that. I don't know.

09:53:03 5 Q. Well, have you seen a written agreement?

09:53:09 6 A. I haven't seen anything.

09:53:10 7 Q. Did you sign something?

09:53:15 8 A. I signed a lot of papers.

09:53:19 9 Q. So what's your understanding of your arrangement with the

09:53:25 10 government?

09:53:26 11 A. That I -- I don't have charges. I've been cooperating since

09:53:44 12 the beginning.

09:53:45 13 Q. So you were selling \$4 million worth of drugs in the United

09:53:55 14 States every ten days?

09:54:08 15 A. I worked for "Poncho" Cuellar.

09:54:11 16 Q. That wasn't my question. My question was, weren't you

09:54:13 17 moving \$10 million worth of drugs into the United States, \$4

09:54:19 18 million worth of drugs into the United States every ten days?

09:54:22 19 Wasn't that your testimony?

09:54:32 20 A. Yes. Yes.

09:54:33 21 Q. And you're facing no charges?

09:54:39 22 A. Not to date. No.

09:54:41 23 Q. And in exchange for that, you're testifying for the

09:54:49 24 government.

09:55:00 25 A. I testify what I know.

09:55:03 1 Q. And you're not facing any charges?

09:55:05 2 MR. GARDNER: Your Honor, it's been asked and answered.

09:55:08 3 THE COURT: It has.

09:55:11 4 Q. (BY MS. WILLIAMS) And you get to stay in the United States?

09:55:20 5 A. At least until now.

09:55:22 6 Q. And your family's in the U.S.?

09:55:26 7 A. That's right.

09:55:26 8 Q. But you could get sent back at any time?

09:55:29 9 A. That's right.

09:55:32 10 Q. That's all the questions I have.

09:55:52 11 MR. DEGEURIN: Your Honor, may we go -- may I go to the

09:55:56 12 bathroom before?

09:55:58 13 THE COURT: Well, if you'd have just waited three

09:56:02 14 minutes. So we'll give you the benefit of three minutes. I'll

09:56:06 15 give you your morning break, members of the jury. You'll have

09:56:09 16 time to use the facilities. Try to be ready in 15 minutes.

09:56:43 17 (Jury not present.)

09:56:55 18 THE COURT: Fifteen-minute recess.

10:14:46 19 (Recess.)

10:15:45 20 (Jury present.)

10:16:44 21 THE COURT: Mr. DeGeurin, your witness.

10:16:49 22 CROSS-EXAMINATION

10:16:51 23 BY MR. DEGEURIN:

10:16:51 24 Q. Thank you, your Honor.

10:16:52 25 Mr. Moreno, I'm Mike DeGeurin. We have not met, have

10:17:09 1 we?

10:17:12 2 A. No.

10:17:15 3 Q. I want to get some details down that I missed in your direct

10:17:23 4 examination.

10:17:28 5 A. Okay.

10:17:29 6 Q. First of all, you said you signed a lot of papers. It

10:17:38 7 wasn't described what papers you signed with your agreement with

10:17:45 8 the government. Can you give me a little more description of the

10:17:50 9 papers you signed?

10:18:02 10 A. Yeah. Well, every time I get questioned, depending on who's

10:18:21 11 questioning me, they take a piece of paper saying that whatever

10:18:24 12 I'm questioned about won't be used against me. That.

10:18:31 13 Q. I see. And that would be papers that were prepared between

10:18:37 14 you and the government and your lawyer?

10:18:47 15 A. Yes.

10:18:48 16 Q. In other words, anything that you tell the agents or the

10:18:54 17 prosecutors or the government, whatever you tell them, any crimes

10:18:59 18 that you tell them about, you will not be prosecuted for; is that

10:19:17 19 correct?

10:19:17 20 A. Yes.

10:19:19 21 Q. So it really gives you kind of a free rein to say things

10:19:24 22 that are incriminating about yourself, or make up things even,

10:19:30 23 and you're not going to be prosecuted for --

10:19:31 24 MR. GARDNER: Your Honor, I'm going to object to the

10:19:33 25 form of that question. It's argumentative.

10:19:36 1 MR. DEGEURIN: I don't think it was argumentative.

10:19:40 2 THE COURT: Okay. I'll sustain.

10:19:48 3 Q. (BY MR. DEGEURIN) So you're given an opportunity to say

10:19:50 4 things about crimes you participated in with an agreement that

10:19:56 5 you will not be prosecuted for anything that you tell them.

10:20:09 6 A. Yes. That's what I understood.

10:20:14 7 Q. Now, one of the things that I'm curious about is being able

10:20:20 8 to investigate what you said -- what you say and check it out.

10:20:33 9 You understand?

10:20:42 10 A. Yes.

10:20:43 11 Q. You know, the details, someone can go check out the details.

10:20:48 12 And so, the first detail I want to ask you about is this one time

10:20:53 13 that you saw Mr. Colorado was at a ranch in Coahuila, the state

10:21:03 14 of Coahuila, but where was the ranch?

10:21:26 15 A. It's in Morelos, Coahuila and the name of the ranch is La

10:21:36 16 Ilusion.

10:21:36 17 Q. La Ilusion, is that like hope or ranch of hope or ranch --

10:21:47 18 A. No. It's La Ilusion.

10:21:50 19 Q. Okay. Can I get you to spell that for me?

10:21:58 20 A. I-L-U-S-I-O-N.

10:22:09 21 Q. That would be rancho la --

10:22:13 22 MR. GARDNER: Your Honor, I'm interested in Mr.

10:22:16 23 DeGeurin's artwork, but just for purposes of this, could we have

10:22:18 24 a clean sheet of paper?

10:22:23 25 MR. DEGEURIN: If it's used at all, it would be for

10:22:27 1 demonstrative purposes.

10:22:27 2 THE COURT: He's talking about the portrait.

10:22:29 3 MR. GARDNER: Portrait. Artwork.

10:22:29 4 MR. DEGEURIN: The one I made of the prosecutor?

10:22:34 5 MR. GARDNER: I'm a very good-looking man. But I

10:22:37 6 understand that, your Honor.

10:22:39 7 MR. DEGEURIN: I don't see any harm here, your Honor.

10:22:42 8 It's a way to remember who the witness is. I could write the

10:22:46 9 name under it.

10:22:49 10 THE COURT: Well, let's go on. I don't think it's

10:22:51 11 going to impress anybody one way or the other.

10:22:54 12 MR. DEGEURIN: Thank you, your Honor.

10:23:05 13 Q. (BY MR. DEGEURIN) All right. And when was that ranch --

10:23:09 14 when was that race at La Ilusion that you saw Mr. Colorado at?

10:23:28 15 A. In 2009.

10:23:31 16 Q. All right. And when was it that you came to the United

10:23:44 17 States and to start your agreement with the government?

10:24:00 18 A. 2011. March, April, 2011.

10:24:03 19 Q. At the race at that ranch, was there a race track there,

10:24:15 20 private race track?

10:24:27 21 A. That's where the Zaragoza, Coahuila futurity is held every

10:24:32 22 year.

10:24:33 23 Q. Oh. So it's an actual race track, not some private race

10:24:36 24 track?

10:24:47 25 A. Well, it's somewhat private, but there's nothing private for

10:24:52 1 "40," "42."

10:24:54 2 Q. That wasn't my question.

10:24:57 3 If the futurity is raced there every year in Mexico, it

10:25:01 4 is a legitimate race track, correct?

10:25:19 5 A. Yes. That -- yes. It's a legitimate race track during the

10:25:23 6 months of April and May.

10:25:25 7 Q. And you testified that "40" had some horses there that he

10:25:38 8 was racing, right?

10:25:42 9 A. Yes.

10:25:43 10 Q. And that Carlos Nayen was there, also?

10:25:51 11 A. Yes.

10:25:52 12 Q. And that Mr. Carlos Nayen had brought some horses that

10:25:57 13 belonged to Mr. Colorado to race.

10:26:07 14 A. Yes.

10:26:10 15 Q. And you did not talk to Mr. Colorado yourself, did you?

10:26:18 16 A. No.

10:26:22 17 Q. And Mr. Carlos Nayen helped -- I believe you testified he

10:26:33 18 helped "40" or his people to select horses to purchase to race in

10:26:45 19 races?

10:26:55 20 A. That's right. For a certain period because before that, he

10:27:08 21 had selected "Pancho" Colorado's horses.

10:27:11 22 Q. So Mr. Nayen helped and advised Mr. "Pancho" Colorado in

10:27:21 23 purchasing -- helping him purchase horses, also, correct?

10:27:30 24 A. Yes. He took the Coronita Cartel there and she later ran in

10:27:42 25 Nuevo Laredo.

10:27:44 1 Q. Carita -- what did you say, Carita Cartel?

10:27:54 2 A. Coronita Cartel.

10:27:55 3 Q. Coronita. When you say he brought, are you talking about

10:27:58 4 Carlos Nayen brought that horse there to race?

10:28:10 5 A. Yeah, for what is 10, something like that.

10:28:16 6 Q. For what?

10:28:18 7 A. For the Marias. For the Las Marias Ranch.

10:28:29 8 Q. Would it be correct if I put down here, you have never

10:28:32 9 spoken to Mr. Colorado?

10:28:40 10 A. Just as I said, no.

10:28:48 11 Q. You testified that you watched some race in the United

10:29:09 12 States and you watched it on the internet, along with Carlos

10:29:16 13 Nayen and other group of people watching it on the internet.

10:29:32 14 A. No. Not with Carlos Nayen.

10:29:36 15 Q. You used a -- I do believe you said you named some people

10:29:46 16 that were there, and you said that Mr. Colorado was not present

10:29:50 17 when you were watching. Who were the people there?

10:30:11 18 A. "40," "42," 2000, Lazcano and Carlitos.

10:30:17 19 Q. All right. That's where I was confused. You said Carlitos,

10:30:21 20 but that's not Carlos Nayen.

10:30:24 21 A. No. Commander Carlitos.

10:30:30 22 Q. So just the five of them were watching it on the internet?

10:30:38 23 A. Yes. And "Poncho" Cuellar.

10:30:48 24 Q. You said something about a site or something that had to do

10:31:04 25 with Petro Servicios or something. Did you use some login or

10:31:16 1 were you watching it on some kind of site? I wasn't clear about
10:31:22 2 that.

10:31:46 3 A. Yes. To be able to watch live or watch the repetitions, we
10:31:54 4 would have to type in Petro Servicios ADT at -- or I don't
10:31:59 5 remember if it was ADT Petro Servicios at and the user name, and
10:32:04 6 the password would be Francisco Colorado.

10:32:07 7 Q. That would be the -- what Mr. Colorado would use if he was
10:32:12 8 going to watch something on the -- a race on the internet.

10:32:27 9 A. I would imagine, but I don't know what he uses.

10:32:31 10 Q. Did you have that information yourself to type in?

10:32:42 11 A. Yes. "40" got it off a message had been sent to him on his
10:32:48 12 BlackBerry.

10:32:50 13 Q. We have heard that Mr. Carlos Nayen would sometimes
10:32:55 14 communicate privately with "40" on his BlackBerry.

10:33:08 15 A. Yes.

10:33:12 16 Q. Do you know whether that is true or not? Did he communicate
10:33:17 17 with "40" on his BlackBerry? Do you know that?

10:33:36 18 A. Yeah. I saw photographs of him. He sent naked photographs
10:33:41 19 that Carlos Nayen would send "40."

10:33:44 20 Q. Well, no one has shown me the naked photographs.

10:33:48 21 THE COURT: Let's ask questions.

10:33:53 22 Q. (BY MR. DEGEURIN) Where were you physically located when you
10:33:58 23 were watching this race on the internet?

10:34:09 24 A. In Nava, Coahuila. In Nava, Coahuila and Piedras Negras at
10:34:20 25 "40's" ranch.

10:34:22 1 Q. All right. Once again, Mr. Colorado was not present while
10:34:26 2 you were watching this race on the internet.

10:34:34 3 A. Mr. Colorado, I only saw one time at the La Ilusion Ranch.

10:34:44 4 Never saw him again.

10:34:49 5 Q. Is that correct that you never saw him again after that one
10:35:12 6 time?

10:35:20 7 A. Today. I saw him today.

10:35:57 8 MR. DEGEURIN: Your Honor, I'm going to mark this for
10:35:59 9 demonstrative purposes only. This would be D-2 and offer it for
10:36:22 10 demonstrative purposes only.

10:36:24 11 MR. GARDNER: No objection, your Honor.

10:36:25 12 THE COURT: All right. It's received.

10:36:28 13 MR. DEGEURIN: Pass the witness.

10:36:32 14 THE COURT: Mr. Womack.

10:36:34 15 CROSS-EXAMINATION

10:36:34 16 BY MR. WOMACK:

10:36:35 17 Q. Thank you, your Honor.

10:36:38 18 Mr. Moreno, I'm Guy Womack from Houston. We've never
10:36:46 19 met before, have we?

10:36:51 20 A. No.

10:36:55 21 Q. You told us that every time you met with the government, you
10:36:58 22 signed some kind of a -- like an immunity letter?

10:37:09 23 A. I don't know what name you give that.

10:37:15 24 Q. Right. But it was a letter that told you that nothing you
10:37:18 25 said would be used against you.

10:37:25 1 A. That's right.

10:37:26 2 Q. And you said you met with the government maybe 50 times.

10:37:36 3 A. Yes.

10:37:39 4 Q. So there should be 50 of these letters with your signature

10:37:39 5 on it somewhere.

10:37:51 6 A. No, because I spoke to the same people several times.

10:37:55 7 Q. Okay. So the first time you would meet with a particular

10:37:59 8 group of agents or prosecutors is when you'd sign the letter.

10:38:12 9 A. Yes.

10:38:12 10 Q. And how many different groups do you think you met with

10:38:16 11 where you signed these letters?

10:38:27 12 A. I don't remember. When I got here, there was a lot, a lot

10:38:44 13 of people, ATF, FBI, DEA, ICE.

10:38:49 14 Q. And what I'm trying to focus on right now is the number of

10:38:52 15 letters that you signed saying that nothing would be used against

10:38:57 16 you. Do you think you may have signed a dozen of those?

10:39:13 17 A. I have no idea. At that moment, everything that was going

10:39:31 18 on in Mexico, I didn't know what my situation was. I was very

10:39:35 19 pressured. My mind wasn't clear. I couldn't think about that.

10:39:39 20 Q. But you remember signing several of them, don't you?

10:39:45 21 A. Yes.

10:39:47 22 Q. Now, as you see it, you were Mario Cuellar's right-hand man;

10:40:07 23 is that right?

10:40:16 24 A. You could say that. Yes.

10:40:17 25 Q. And you have said that under oath before, haven't you?

10:40:24 1 A. Several times.

10:40:28 2 Q. And you believed that you were aware of everything that he

10:40:33 3 was doing?

10:40:43 4 A. Everything I was doing, yes.

10:40:45 5 Q. You were aware of everything that Mario Cuellar was doing

10:40:49 6 because you're his right-hand man.

10:40:58 7 A. Didn't sleep with him. I didn't know what he was doing when

10:41:04 8 I wasn't with him. When I was with him at work, I knew what he

10:41:07 9 was doing.

10:41:08 10 Q. Okay. So with regards to his drug-trafficking activity and

10:41:12 11 gun trafficking, you knew about all of that, didn't you?

10:41:22 12 A. Yes.

10:41:24 13 Q. And you were -- you personally were in charge of Jose

10:41:28 14 Vasquez, Jr., weren't you?

10:41:34 15 A. That's right.

10:41:35 16 Q. And you would send him to do different things in assisting

10:41:40 17 you and Mario Cuellar.

10:41:47 18 A. That's right.

10:41:48 19 Q. Did you pay Jose Vasquez, Jr. any money?

10:41:55 20 A. No, because since he owed so much money and he had the

10:42:14 21 company's money, he didn't charge us for the favors we asked.

10:42:19 22 Q. Okay. To your knowledge, did you or the company pay him a

10:42:24 23 salary of a million or a commission of \$1 million a month? Just

10:42:43 24 answer "Yes" or "No."

10:42:44 25 A. I think he was earning more. Yes.

10:42:52 1 Q. And you started to say, before I cut you off, sometimes it
10:42:56 2 was even more than a million dollars a month.

10:43:02 3 A. Yes.

10:43:03 4 Q. How much were you getting paid yourself?

10:43:12 5 A. I was paid \$200 per kilo.

10:43:15 6 Q. Okay. If Jose Vasquez, Jr. was getting a million dollars
10:43:22 7 and more a month, how much were you getting every month?

10:43:55 8 A. I was paid 200,000, but then, I lost it all because anytime
10:44:00 9 that something was lost or Jose Vasquez or someone made a
10:44:04 10 mistake, had to pay it. There was one time that between "Poncho"
10:44:08 11 and I, "Poncho" and I, we paid a year's earnings.

10:44:13 12 Q. Now, during the time that you worked with Cuellar and
10:44:20 13 Vasquez, Jr., in essence, what you were controlling was cocaine
10:44:25 14 being smuggled from Mexico into the United States; is that right?

10:44:34 15 A. Yes.

10:44:42 16 Q. And then, you also coordinate -- you also smuggled money
10:44:46 17 from the United States back into Mexico.

10:44:58 18 A. Yes. With the drivers.

10:45:01 19 Q. And also, you would smuggle guns from the United States into
10:45:04 20 Mexico.

10:45:13 21 A. Yes.

10:45:17 22 Q. Before today, you have never told a jury anything about
10:45:25 23 diverting money within the United States to pay for horses, have
10:45:29 24 you?

10:45:39 25 A. No.

10:45:40 1 Q. No, you haven't, or no, that's not true?

10:45:47 2 A. No. I hadn't done it.

10:45:50 3 Q. You had never said that before?

10:45:54 4 A. No.

10:45:55 5 Q. And you also have never before told a jury that money was

10:45:59 6 smuggled from Mexico back into the United States to pay for

10:46:03 7 horses.

10:46:15 8 A. Because I didn't introduce the money.

10:46:16 9 THE INTERPRETER: I didn't bring the money in.

10:46:18 10 Interpreter's correction.

10:46:19 11 Q. (BY MR. WOMACK) But everything that Jose Vasquez, Jr. did

10:46:23 12 and everything that Mario Cuellar did, you were aware of,

10:46:26 13 correct?

10:46:35 14 A. Yes. It was money that was here, here in the U.S.

10:46:37 15 Q. Okay. And so, when I say divert money, if the money is in

10:46:40 16 America and it stays in America, but it goes to pay for horses in

10:46:45 17 America, you've never told a jury that before, have you?

10:47:01 18 A. No.

10:47:02 19 Q. In fact, you've never mentioned to a jury anywhere in

10:47:05 20 America anything about horses at all, have you, before today?

10:47:20 21 A. No. I hadn't mentioned -- the horses, no.

10:47:31 22 Q. Now, you told us that you're not pending charges as long as

10:47:39 23 you cooperate with the United States government; is that correct?

10:47:52 24 A. True.

10:47:53 25 Q. And the person who will decide if you've been cooperating

10:48:00 1 with the U.S. government are the prosecutors that you testify
10:48:07 2 for, correct?

10:48:12 3 A. Yes. Since the first day I came.

10:48:21 4 Q. Now, I want to talk to you a little bit about Mr. Piloto.

10:48:28 5 You actually watched Mr. Piloto win the All American, didn't you?

10:48:38 6 A. Yes.

10:48:39 7 Q. Your Honor, we'd like to play that race. During the break,
10:48:44 8 the government was nice enough to download the YouTube onto a
10:48:49 9 disc. If they'll show me how to operate it.

10:49:12 10 MR. GARDNER: Do you have a number on it?

10:49:14 11 MR. WOMACK: I don't. We'll make it Garcia 3.

10:49:16 12 MR. GARDNER: Your Honor. We have no objection to

10:49:19 13 Garcia 3.

10:49:19 14 THE COURT: All right. Admitted.

10:49:22 15 Q. (BY MR. WOMACK) So I'm going to stand back here so I can
10:49:24 16 operate the computer a little bit. That's not to be funny.

10:49:28 17 But as we're looking at it right now, if you look at
10:49:33 18 the top, it says, Ruidoso Downs. That's in New Mexico, isn't
10:49:39 19 its?

10:49:43 20 A. Yes.

10:49:45 21 Q. And the All American Race of 2010 was run on September 6,
10:49:53 22 2010, correct?

10:50:04 23 A. Don't remember the date.

10:50:06 24 Q. Do you see up at the top middle in the blue where it says,
10:50:09 25 9-6-2010?

10:50:15 1 A. Yes.

10:50:16 2 Q. Could it be the race was run on September 6, 2010?

10:50:33 3 A. When this race starts and I see the path that Mr. Piloto

10:50:39 4 takes, I can tell you if that's the race or not.

10:50:41 5 Q. Let's do that.

10:50:43 6 (Video and audio file played.)

10:51:37 7 Q. Now, have you seen that videotape? You remember that, don't

10:51:40 8 you?

10:51:43 9 A. Yes.

10:51:44 10 Q. It was a pretty exciting race, wasn't it?

10:51:48 11 A. Yes.

10:51:49 12 Q. And one of the reasons it was exciting as we saw in the

10:51:56 13 race, Mr. Piloto was in the chute No. 9. He was on the extreme

10:52:00 14 as you look at the screen, to the extreme left, wasn't he?

10:52:17 15 A. Yes.

10:52:18 16 Q. And when he first comes out of the chute, we're going to

10:52:27 17 watch it and I'm going to stop it.

10:52:28 18 (Video and audio file played.)

10:52:49 19 Q. All of these open at exactly the same time, don't they?

10:52:58 20 A. It would appear so. Yes.

10:52:59 21 Q. And, in fact, the horses in, looks like, 3, 4, 6 actually

10:53:10 22 have a jump -- they explode -- some of those horses explode out

10:53:14 23 of the chute faster than Mr. Piloto, don't they? You see it,

10:53:31 24 don't you?

10:53:31 25 A. Yes.

10:53:31 1 Q. Now.

10:53:34 2 (Video and audio file played.)

10:53:38 3 Q. And while the other horses are going more or less straight

10:53:42 4 down the track, Mr. Piloto veers off to his right, doesn't he?

10:53:54 5 A. A lot.

10:53:56 6 Q. He goes all the way within about two meters of the rail

10:54:03 7 before he finally straightens up and goes down the course,

10:54:05 8 correct?

10:54:16 9 A. That's right.

10:54:17 10 Q. At this point, however far that is, 30 meters or whatever,

10:54:22 11 he is pretty much dead last, isn't he?

10:54:38 12 A. Yeah. You don't even -- you really don't even see that

10:54:42 13 until you get up to where the people are.

10:54:46 14 (Video and audio file played.)

10:54:53 15 Q. And you know at this point, around the midpoint of the race,

10:54:56 16 he's still back there at least four or five horses in front of

10:54:59 17 him, aren't there?

10:55:12 18 A. No. I don't remember.

10:55:14 19 Q. Well, looking at it, you can tell he's on the far left of

10:55:17 20 the picture, he's behind all but maybe one or two horses, isn't

10:55:20 21 he?

10:55:37 22 A. No. No. He's about equal. I mean, the angle that you are

10:55:41 23 looking at this time, you don't see it clearly, but he -- that

10:55:44 24 horse is about almost in the lead.

10:55:46 25 Q. You know they don't mention his name until near the end

10:55:49 1 because it's Mr. Big Time and the other horses that are leading.

10:56:01 2 A. Yes. Big Time and Dominion.

10:56:06 3 (Video and audio file played.)

10:56:24 4 Q. So rather than the starters holding these horses back, as

10:56:28 5 you claimed, you saw the gates all open at the same time and if

10:56:32 6 anything -- and definitely Mr. Piloto -- they said "Pil-auto," we

10:56:37 7 know it's Mr. Piloto -- Mr. Piloto was behind in the beginning.

10:56:41 8 He ran further because he went to the outside and he caught

10:56:45 9 everyone --

10:56:46 10 MR. GARDNER: Your Honor, Mr. Womack's testifying. We

10:56:48 11 would ask that he answer -- or ask a question. We would object

10:56:51 12 to the form --

10:56:51 13 MR. WOMACK: I'm getting ready to ask. I understand.

10:56:54 14 Q. (BY MR. WOMACK) You saw that Mr. Piloto was not the first

10:56:57 15 horse out of the gate.

10:57:14 16 A. Well, you know, with the motion of the race here, it looks

10:57:17 17 like all of the gates open the same.

10:57:19 18 Q. And he was not even the first one out of the gate, was he?

10:57:35 19 A. He was a really slow horse. The gates all have to open at

10:57:40 20 the same time. What doesn't -- what doesn't happen is that they

10:57:42 21 don't release them at the same time.

10:57:44 22 Q. And you saw that other horses -- several of the other horses

10:57:47 23 actually were ahead of him coming out of the gates. You saw

10:57:50 24 that?

10:57:58 25 A. Yes, I saw it.

10:58:00 1 Q. Okay. And when Mr. Piloto finally got out of the gate, he
10:58:04 2 veered off to his right towards the rail, didn't he?

10:58:13 3 A. Yes.

10:58:14 4 Q. And he ran near the rail and finally straightened up, went
10:58:19 5 straight down the course.

10:58:28 6 A. Yes.

10:58:28 7 Q. And he caught the entire field and passed them by a nose at
10:58:33 8 the end, correct?

10:58:41 9 A. I don't know if he caught them or they caught him. I don't
10:58:52 10 know. I don't know about horse races.

10:58:55 11 Q. It was pretty obvious that if he's behind and then, he wins,
10:58:59 12 he must have overtaken the other horses, right?

10:59:10 13 A. That's right.

10:59:11 14 Q. He won this race on pure speed, correct?

10:59:15 15 MR. GARDNER: I'm going to object to the form of that
10:59:17 16 question. It's argumentative.

10:59:20 17 THE COURT: Not argumentative. If he wants to hear the
10:59:23 18 answer, he can ask it.

10:59:43 19 A. I don't know. I don't know if orders were followed or were
10:59:46 20 not followed. I was ordered, I was told to pay \$110,000 to
10:59:51 21 people in Ruidoso. I don't know.

10:59:54 22 Q. (BY MR. WOMACK) And you told us that was to affect the start
10:59:57 23 of the race, correct?

11:00:01 24 A. That's right.

11:00:03 25 Q. And we know that the slowest horse coming out of the gate

11:00:06 1 and the one that ran to the outside overtook everyone and won the
11:00:11 2 race, and that was Mr. Piloto, correct?

11:00:22 3 A. That's right.

11:00:24 4 Q. You know this race was run under the control of the New
11:00:28 5 Mexico Racing Commission, as it always is.

11:00:44 6 A. I don't know the rules under which races are run.

11:00:47 7 Q. You know that there were nine or ten owners interested in
11:00:51 8 the outcome of this race.

11:01:02 9 A. It's the most important race for quarter horses.

11:01:10 10 Q. So if there had been any kind of irregularity in this race,
11:01:14 11 don't you think they would still be fighting over who gets the
11:01:16 12 money?

11:01:24 13 A. I don't know.

11:01:27 14 Q. Your Honor, I have no further questions.

11:01:39 15 MR. ESPER: May it please the Court.

11:01:40 16 CROSS-EXAMINATION

11:01:40 17 BY MR. ESPER:

11:02:07 18 Q. Mr. Moreno, do you remember speaking with this Agent Lawson
11:02:17 19 and a female agent a number of times?

11:02:27 20 A. Yes.

11:02:28 21 Q. And do you remember whenever you were speaking to Agent
11:02:32 22 Lawson and this female agent, one of them was asking you
11:02:36 23 questions and the other was interpreting or writing down notes?

11:02:56 24 A. Yes.

11:02:57 25 Q. Now, that was about a year ago or year and a half ago, was

11:03:00 1 it not?

11:03:06 2 A. I -- I have no idea. I don't know. Well, it's been two

11:03:17 3 years. Maybe, yes.

11:03:19 4 Q. Okay. And in the course of those interviews, you were being

11:03:24 5 asked questions, were you not?

11:03:29 6 A. Yes.

11:03:30 7 Q. And you were giving truthful answers, correct?

11:03:38 8 A. That's right.

11:03:39 9 Q. And you were also being asked to -- if you remembered things

11:03:43 10 that weren't being asked, to volunteer, correct?

11:03:49 11 A. Yes.

11:03:53 12 Q. Now, isn't it true, Mr. Moreno, that you never told Agent

11:04:03 13 Lawson or the female FBI agent that was interviewing you about

11:04:09 14 this dinner that you had in Nava, Mexico that you told the jury

11:04:15 15 about?

11:04:31 16 A. The dinner in Nava, Mexico that I had -- yeah, yeah, I

11:04:39 17 mentioned it.

11:04:40 18 Q. You told the agents that?

11:04:51 19 A. I told them the whole story, the whole story about Tempting

11:04:54 20 Dash, Mr. Piloto. I told them the whole story.

11:04:56 21 Q. That's not what I'm asking you.

11:04:58 22 Did you tell the agents that you had dinner at this

11:05:03 23 restaurant in Nava, Mexico, just like you've told this jury here

11:05:07 24 today?

11:05:16 25 A. I don't know specifically if I told him about the first

11:05:29 1 interview or other interviews, but yes, I did talk about it.

11:05:31 2 Q. Okay. So the questions I'm asking you are either "Yes,"

11:05:34 3 "No," or "I don't remember," okay?

11:05:43 4 A. Don't remember.

11:05:44 5 Q. Okay. Did you tell the agents about the supposed smuggling

11:05:49 6 of aliens into the United States to go work at Mr. Huitron's

11:05:55 7 horse-training stables?

11:06:04 8 A. Yes.

11:06:05 9 Q. You told them that. Did you tell the agents about Mr.

11:06:13 10 Huitron supposedly sitting at a table talking with "40," Miguel

11:06:20 11 Trevino? "Yes," "No," or "I don't remember"?

11:06:34 12 A. No.

11:06:35 13 Q. You didn't tell them that, did you?

11:06:38 14 A. No.

11:06:39 15 Q. Okay. Did you tell the agents that you directed Mr. Vasquez

11:06:52 16 to deliver \$200,000 to Mr. "Chevo" Huitron to buy horses? "Yes,"

11:07:15 17 "No," or "I don't remember"?

11:07:22 18 A. I gave Jose Vasquez orders for purchases. I don't remember

11:07:27 19 exactly who it was for.

11:07:28 20 Q. Okay. So the answer was, "I don't remember"?

11:07:33 21 A. Don't remember.

11:07:34 22 Q. Okay. Now, did you ever meet Mr. Paul Jones? He's a

11:07:44 23 trainer, correct?

11:07:49 24 A. No.

11:07:50 25 Q. Do you know -- and if you don't, simply say so -- whether or

11:07:54 1 not you, "Poncho" Cuellar or Mr. Vasquez had money sent to Paul
11:08:01 2 Jones?
11:08:15 3 A. No. No I don't know.
11:08:17 4 Q. Okay. Did Mr. Cuellar own some horses that Mr. Huitron
11:08:22 5 trained?
11:08:28 6 A. Yes.
11:08:29 7 Q. How many, if you know?
11:08:33 8 A. Don't have any idea. Three or four.
11:08:35 9 Q. Okay. And do you know how much Mr. Cuellar paid "Chevo"
11:08:41 10 Huitron to train and board his horses?
11:08:53 11 A. No. I have no idea.
11:08:54 12 Q. And do you know who paid "Chevo" Huitron the fees for his
11:09:00 13 services and for boarding those horses?
11:09:09 14 A. Whose horses?
11:09:16 15 Q. Mr. Cuellar, "Poncho's."
11:09:18 16 A. "Poncho" or I.
11:09:19 17 Q. Okay. Let's talk about what you paid Mr. "Chevo" Huitron.
11:09:24 18 How much did you pay him for the training of Mr. "Poncho"
11:09:29 19 Cuellar's horses?
11:09:43 20 A. 10,000.
11:09:45 21 Q. When did you pay him? When and where did you pay him?
11:10:02 22 A. "Poncho" Cuellar's house in Nava, Coahuila.
11:10:06 23 Q. Okay. You personally gave him \$10,000?
11:10:11 24 A. Yes.
11:10:12 25 Q. Now, you also claim that at this dinner in Nava, Mexico,

11:10:17 1 somebody gave "Chevo" Huitron \$40,000.

11:10:30 2 A. I. I pulled it out and I gave it to him.

11:10:33 3 Q. And that was for "Poncho" Cuellar's horse, was it not?

11:10:37 4 A. No. I noted that on Miguel Trevino's marihuana account.

11:10:49 5 Q. You've noted that on Miguel Trevino's marihuana account?

11:11:10 6 A. Correct, because from what was owed to him from the

11:11:16 7 marihuana, that was discounted from that amount because he had

11:11:18 8 one or two tons that was being dedicated to that.

11:11:21 9 Q. Okay. Who's he?

11:11:26 10 A. Commander 40.

11:11:27 11 Q. Okay. And did Commander 40 tell you to give \$40,000 to Mr.

11:11:34 12 Huitron? That's not what I asked you, sir.

11:11:45 13 MR. GARDNER: Your Honor, I know Mr. Esper speaks

11:11:48 14 Spanish, but per the Court's earlier rulings, could we hear the

11:11:51 15 answer, please?

11:11:52 16 MR. ESPER: I apologize, your Honor.

11:11:55 17 A. "Pancho" Cuellar asked me for them and I asked against whom.

11:12:03 18 Q. (BY MR. ESPER) "Poncho" Cuellar asked you for the \$40,000,

11:12:06 19 correct?

11:12:10 20 A. Correct.

11:12:10 21 Q. And "Poncho" Cuellar told you how this money is supposed to

11:12:15 22 be credited or debited to somebody's account, correct?

11:12:25 23 A. That's right.

11:12:26 24 Q. Now, when you gave this money supposedly to Mr. "Chevo"

11:12:31 25 Huitron, you never told him, this is drug money, Mr. Huitron, did

11:12:36 1 you?

11:12:45 2 A. No.

11:12:46 3 Q. That would have been stupid, correct?

11:12:50 4 A. Well, yeah. Of course.

11:12:51 5 Q. Now, let's talk about your drug dealing, Mr. Moreno. You

11:12:59 6 know what cocaine looks like, don't you?

11:13:05 7 A. Like what?

11:13:06 8 Q. You know what cocaine looks like, don't you?

11:13:12 9 A. Yes.

11:13:13 10 Q. And you've seen it not only in kilo quantities but in ounce

11:13:17 11 quantities, too, haven't you?

11:13:23 12 A. Yes.

11:13:25 13 Q. Now, your Honor, I'm technologically challenged. Is there

11:13:38 14 someone that can -- thank you.

11:13:57 15 Now, Mr. Moreno, how many grams are in a kilo of

11:14:07 16 cocaine?

11:14:08 17 A. Thousand.

11:14:09 18 Q. That would be accurate, correct?

11:14:26 19 A. Yes.

11:14:27 20 Q. Okay. How many ounces are in a kilo, do you know?

11:14:37 21 A. No.

11:14:39 22 Q. How many grams are in an ounce of cocaine?

11:14:47 23 A. I don't know.

11:14:47 24 Q. You've never seen an ounce of cocaine?

11:14:53 25 A. Yeah, but I've never asked that and I've never weighed it.

11:14:56 1 Q. Okay. Your Honor, for demonstrative purposes, I have marked
11:15:00 2 this exhibit as Defendant's Exhibit EH-1.

11:15:03 3 MR. GARDNER: No objection, your Honor.

11:15:05 4 Q. (BY MR. ESPER) You've seen something like this before,
11:15:08 5 haven't you?

11:15:13 6 A. Yes.

11:15:14 7 Q. For the record, your Honor, this is not cocaine. This is
11:15:19 8 flour.

11:15:20 9 THE COURT: I had a hunch.

11:15:21 10 Q. (BY MR. ESPER) Thank you, your Honor.

11:15:23 11 And that's about an ounce of cocaine, is it not?

11:15:27 12 A. I have no idea.

11:15:29 13 Q. But you've seen this before, haven't you?

11:15:35 14 A. I've seen loose cocaine. Yes.

11:15:37 15 Q. Okay. And how many of these ounces of cocaine do you know
11:15:43 16 are in a kilo? Thirty-five, 40 of these?

11:15:56 17 A. I don't know.

11:15:57 18 Q. A lot of them, correct?

11:15:58 19 A. We sold kilos, not ounces.

11:16:01 20 Q. Okay. A lot of them, correct?

11:16:05 21 A. Yeah. I would imagine, yes.

11:16:07 22 Q. Okay. And isn't it a fact, sir, that you smuggled four to
11:16:12 23 five tons -- you brought four to five tons of cocaine into the
11:16:21 24 United States per year, correct?

11:16:32 25 A. Yes.

11:16:33 1 Q. Would it surprise you, sir, that four to five tons of
11:16:36 2 cocaine comes down to about 176,000 of these that you and your
11:16:43 3 buddies flooded the United States market with?

11:16:46 4 MR. GARDNER: Your Honor --

11:16:48 5 Q. (BY MR. ESPER) Do you know?

11:16:48 6 MR. GARDNER: Your Honor, I'm going to object. I
11:16:50 7 appreciate why Mr. Esper seeks this question. I'm going to
11:16:53 8 object that it's argumentative.

11:16:54 9 THE COURT: It is argumentative. And when he objects,
11:17:01 10 don't continue.

11:17:02 11 Q. (BY MR. ESPER) Do you know how much cocaine you infiltrated
11:17:05 12 into this country?

11:17:10 13 A. No.

11:17:11 14 Q. Well, four to five tons is what you claim, correct?

11:17:18 15 A. Yes.

11:17:18 16 Q. And you would agree that that's a lot of cocaine, isn't it?

11:17:26 17 A. Yes.

11:17:27 18 Q. Okay. And when you were doing that, you weren't concerned
11:17:30 19 about federal authorities arresting you, were you?

11:17:44 20 A. Yes.

11:17:47 21 Q. You were concerned?

11:17:49 22 A. Yes.

11:17:50 23 Q. And you were concerned because the truth is, Mr. Moreno, you
11:17:55 24 had been arrested back in 2004, coming across Piedras Negras into
11:18:03 25 Eagle Pass at the port-of-entry with 10 kilograms of cocaine,

11:18:07 1 correct?

11:18:21 2 A. Yes.

11:18:22 3 Q. And you were taken to jail, were you not?

11:18:27 4 A. Yes.

11:18:27 5 Q. And you appeared in a federal court, similar to one like

11:18:33 6 this, didn't you?

11:18:39 7 A. Yes.

11:18:40 8 Q. And do you remember the judge that you appeared in front of

11:18:43 9 in your case? His name?

11:18:51 10 A. No.

11:18:52 11 Q. If I gave it to you, would you recognize the name?

11:18:57 12 A. Yes.

11:18:57 13 Q. Was it William Wayne Justice?

11:19:01 14 A. Yes.

11:19:02 15 Q. Okay. And that was back in 2004 and 2005, correct?

11:19:10 16 A. Yes.

11:19:11 17 Q. And do you remember being told in that case that you were

11:19:16 18 facing a sentence of a minimum of ten years to life in prison?

11:19:27 19 MR. GARDNER: Your Honor, may I approach?

11:19:33 20 THE COURT: Yes, sir.

11:19:34 21 (At the bench, on the record.)

11:19:41 22 MR. GARDNER: Your Honor, I believe Mr. Esper has the

11:19:43 23 right to inquire into the conviction itself. The underlying

11:19:46 24 facts surrounding the conviction, I don't believe he has the

11:19:48 25 proper impeachment --

11:19:50 1 MR. ESPER: I'm not going into the facts. I'm going
11:19:50 2 into --

11:19:52 3 MR. GARDNER: He's going into the sentencings and facts
11:19:54 4 and the statutory range, and who's the judge.

11:19:56 5 MR. ESPER: Your Honor, I think it's permissible to go
11:19:58 6 into what his knowledge was of what he was facing and what
11:20:02 7 sentence he ultimately ended up. I'm not going to ask him about
11:20:06 8 who he cooperated on, but I'm going to try to show that he did
11:20:10 9 cooperate and gotten a substantial --

11:20:12 10 THE COURT: Okay.

11:20:13 11 MR. ESPER: -- decrease.

11:20:16 12 THE COURT: I have no objection from.

11:20:18 13 MR. GARDNER: I object to improper impeachment, your
11:20:20 14 Honor.

11:20:20 15 THE COURT: Okay. I'll overrule.

11:20:24 16 MR. WOMACK: Before we leave, we haven't been given any
11:20:27 17 -- to my knowledge, any copies of plea agreements of any kind,
11:20:30 18 and no proffer letters, or letters of immunity. He said there's
11:20:35 19 several of them. We'd like the government to give us those. We
11:20:40 20 have not gotten any of them.

11:20:40 21 MR. GARDNER: Your Honor, I've never given him a
11:20:43 22 proffer letter. When I interviewed him, I was told these were a
11:20:46 23 verbal proffer from the Eastern District of Texas. I believe
11:20:47 24 he's a little confused. And I honestly believe I gave these
11:20:50 25 gentlemen Jencks material on Friday, and this is the first time

11:20:53 1 I've heard this.

11:20:54 2 MR. WOMACK: Because we didn't know they existed until
11:20:55 3 the witness talked about it. We didn't know he signed anything.

11:21:01 4 We don't think the government's trying to hide the ball.

11:21:01 5 MR. GARDNER: He's already cross-examined him on it
11:21:05 6 extensively. And it's in his prior testimony from his prior
11:21:08 7 trial.

11:21:09 8 MR. WOMACK: We have a right to see those because there
11:21:12 9 might be 100 of them, or there might be one. He said there's
11:21:14 10 several. We don't know how many. We should be allowed to see
11:21:18 11 those, and the plea agreements, if they exist. I know these
11:21:21 12 prosecutors can get them all. If they were aware of it, they
11:21:23 13 would give it to us. But now they all know about it. We would
11:21:26 14 like to see those.

11:21:28 15 THE COURT: Well, first off, the assistant United
11:21:31 16 States attorney in this case has made it clear that all of his
11:21:34 17 proffers were oral. That takes care of one thing. And I don't
11:21:41 18 know what documents because he's not so testified. If there are
11:21:49 19 immunity documents, he's been told, and he hasn't stated they
11:21:55 20 were in Spanish. He hasn't stated he read them. He hadn't
11:21:59 21 stated anything about them. We don't know who they are. We
11:22:01 22 don't know where they are. I guess they're in the Eastern
11:22:04 23 District of Texas.

11:22:05 24 MR. WOMACK: He said he signed them.

11:22:06 25 THE COURT: He signed them. Yeah.

11:22:08 1 MR. WOMACK: And -- yes, sir. And also, he said he
11:22:10 2 signed them but on several occasion -- different ones. He signed
11:22:12 3 them. And it was explained to him by his lawyer or by the agents
11:22:17 4 that these were letters that would promise nothing will be used
11:22:20 5 against him. So it is a proffer letter or something.

11:22:23 6 MR. GARDNER: I could ask him.

11:22:25 7 MR. WOMACK: And we're entitled to them. During the
11:22:28 8 lunch hour, you can ask. I'm sorry, I --

11:22:29 9 THE COURT: He can ask him another question.

11:22:32 10 MR. DEGEURIN: Okay. On the stand.

11:22:33 11 THE COURT: But the evidence today is he signed a lot
11:22:38 12 of papers. He's arranged with the lawyer. He has nothing that
11:22:49 13 is keeping him from being prosecuted. He has loose immunity
11:22:55 14 because he's been told that nothing he tells the federal agents
11:23:01 15 can be used against him. He actually hasn't said he can't be
11:23:06 16 charged, but that's because he doesn't understand the questions
11:23:12 17 y'all asked. And you've turned that into what is not his
11:23:18 18 testimony, but that's your business and not mine.

11:23:22 19 Now, if this is an oral motion for all of the papers he
11:23:29 20 signed, it's denied.

11:23:31 21 MR. DEGEURIN: Your Honor, one thing. The problem is
11:23:34 22 the Giglio material, we don't have because the witness has told
11:23:43 23 Mr. Gardner all of his proffers were oral. That's not true
11:23:47 24 apparently. So that's -- I think we need to be able to check the
11:23:52 25 Giglio material we don't have now. Some time. I don't want to

11:24:01 1 uphold the jury --

11:24:02 2 THE COURT: You're not asking --

11:24:04 3 MR. DEGEURIN: And check that with --

11:24:05 4 THE COURT: -- you're asking for what he signed since

11:24:07 5 he's been here?

11:24:08 6 MR. DEGEURIN: No, no -- well, yeah, since he's been

11:24:10 7 here.

11:24:11 8 MR. MAYR: Since he's been cooperating with the

11:24:13 9 government.

11:24:13 10 THE COURT: Since 2011.

11:24:16 11 MR. DEGEURIN: The Giglio material has been turned over

11:24:18 12 to the other witnesses, but apparently, for some reason or

11:24:19 13 another, Mr. Gardner doesn't have it for this witness right now.

11:24:22 14 Is that correct, Mr. Gardner? They exist, just doesn't have it.

11:24:27 15 MR. GARDNER: Well, I don't even know if they exist.

11:24:29 16 MR. DEGEURIN: Okay. And I don't either except he says

11:24:33 17 he signed then. I think we'd request in the alternative would be

11:24:38 18 that some time over the lunch hour, Mr. Gardner check to see.

11:24:42 19 MR. GARDNER: I can send an e-mail to the Eastern

11:24:47 20 District.

11:24:47 21 MR. DEGEURIN: And then, we get those if they find

11:24:50 22 them.

11:24:50 23 MS. FERNALD: And for the record, the government at

11:24:52 24 this point, these representatives of the government, we don't

11:24:56 25 have any documents. I just --

11:25:00 1 MR. WOMACK: Well, we don't doubt at all.

11:25:05 2 THE COURT: Okay. He's going to check to see what the

11:25:12 3 Eastern District has in writing, and we'll find out, of course.

11:25:16 4 We all know, sitting up here, it's meaningless, but y'all make

11:25:20 5 your record the way you wish.

11:25:40 6 MR. ESPER: May I proceed, your Honor?

11:25:46 7 THE COURT: Yes.

11:25:47 8 Q. (BY MR. ESPER) Now, Mr. Moreno, when you got arrested in

11:25:51 9 Eagle Pass, Texas, I believe you said you were put in jail,

11:25:55 10 correct?

11:26:02 11 A. Yes.

11:26:02 12 Q. You didn't get out on a bond, did you?

11:26:06 13 A. No.

11:26:07 14 Q. And you made a number of court appearances in that case, did

11:26:12 15 you not?

11:26:17 16 A. Yes.

11:26:18 17 Q. Now, I believe I asked you that the range of punishment was

11:26:22 18 mandatory ten years to life, correct?

11:26:33 19 A. Yes.

11:26:34 20 Q. That's 120 months, correct?

11:26:38 21 A. Yes.

11:26:39 22 Q. Now, you had a lawyer in that case, did you not?

11:26:43 23 A. Yes.

11:26:44 24 Q. You pled guilty in that case, did you not?

11:26:48 25 A. Yes.

11:26:49 1 Q. And you appeared for sentencing in front of Judge Justice,
11:26:55 2 correct?
11:26:59 3 A. Yes.
11:27:00 4 Q. And whenever you pled guilty and before you were sentenced,
11:27:03 5 before you pled guilty, before you were sentenced, you were put
11:27:06 6 under oath, just like you were here today, were you not?
11:27:20 7 A. Yes.
11:27:20 8 Q. And you knew that you had to tell the truth whenever you
11:27:23 9 pled guilty and anything you said at sentencing, correct?
11:27:35 10 A. Yes.
11:27:35 11 Q. And, of course, you didn't know what sentence Judge Justice
11:27:38 12 was going to give you before it came out of his mouth, did you?
11:27:46 13 A. Yes.
11:27:47 14 Q. And you wanted him to be lenient on you and give you as
11:27:51 15 little time in jail as possible, right?
11:28:02 16 A. Yes.
11:28:03 17 Q. And as a matter of fact, you told Judge Justice, before he
11:28:07 18 sentenced you, that -- and I may not be using the exact words --
11:28:12 19 but I'm sorry, I won't do this again. You won't ever see me
11:28:17 20 here, correct?
11:28:17 21 MR. GARDNER: Your Honor, I'm going to object this time
11:28:19 22 to improper impeachment.
11:28:25 23 THE COURT: All right. I think it's -- I'll overrule
11:28:28 24 that objection. You may answer the question.
11:28:44 25 A. I think so. Yes.

11:28:45 1 Q. (BY MR. ESPER) Yes. And then, Judge Justice -- and, of
11:28:49 2 course, you were telling him that because you wanted out of jail,
11:28:53 3 correct?
11:28:59 4 A. Uh-huh.
11:29:01 5 Q. Okay. And then, did Judge Justice give you a sentence of
11:29:09 6 twelve months and one day?
11:29:19 7 A. That's right.
11:29:21 8 Q. And so, that was a far cry from the 120 months that you were
11:29:26 9 looking at, right?
11:29:33 10 A. Yes.
11:29:34 11 Q. And you were very happy with that, weren't you?
11:29:39 12 A. Yes.
11:29:40 13 Q. Now, he also -- out of that twelve months and one day, how
11:29:45 14 much time did you actually spend in prison?
11:30:03 15 A. Ten, eleven months. Don't remember.
11:30:08 16 Q. And part of the reason why you got this sentence, besides
11:30:14 17 you pleading with the judge for this, is you gave -- you
11:30:20 18 cooperated, correct?
11:30:32 19 A. That's right.
11:30:33 20 Q. Now, I'm not asking you for the names or what you said, but
11:30:36 21 cooperation means you have to give up information about people,
11:30:40 22 right?
11:30:51 23 A. That's right.
11:30:52 24 Q. So the cooperation plus your pleas under oath to Judge
11:30:57 25 Justice got you a twelve-months-and-one-day sentence, correct?

11:31:12 1 A. Yes.

11:31:13 2 Q. And that was for trying to bring ten kilograms of cocaine

11:31:17 3 into the United States?

11:31:25 4 A. Yes.

11:31:26 5 Q. Now, Judge Justice also gave you -- you know what supervised

11:31:30 6 release is?

11:31:36 7 A. No.

11:31:37 8 Q. Do you know whether or not Judge Justice said you cannot

11:31:41 9 come back into this country for the next three years because

11:31:45 10 you're going to be on supervised release?

11:32:00 11 A. Yeah, but it didn't matter, because I didn't have a way to

11:32:03 12 get here.

11:32:03 13 Q. Okay. So after you were released from prison, you were

11:32:06 14 deported back to Mexico, correct?

11:32:14 15 A. That's right.

11:32:14 16 Q. And other than when you went to the bridge in 2011, March of

11:32:19 17 2011, did you ever sneak into the United States?

11:32:31 18 A. No. Never.

11:32:31 19 Q. Okay. But after you got out of prison in 2005 -- is that

11:32:36 20 the year you got out?

11:32:43 21 A. Yes.

11:32:44 22 Q. For the next couple of years, you've kept your word that you

11:32:48 23 promised Judge Justice that you wouldn't get involved in this

11:32:52 24 again, didn't you, for a couple of years?

11:33:03 25 A. Yes.

11:33:03 1 Q. And then, in 2007, you got back into the drug-dealing
11:33:07 2 business, correct?
11:33:12 3 A. That's right.
11:33:13 4 Q. So when you were in that courtroom in front of Judge Justice
11:33:17 5 telling him under oath you weren't going to do this stuff again,
11:33:19 6 you lied to him, didn't you?
11:33:33 7 A. I had to go back because of the circumstances.
11:33:35 8 Q. I'm not asking you what you had to do, Mr. Moreno. You lied
11:33:39 9 to Judge Justice because you went back and did something that you
11:33:44 10 swore to him under oath you weren't going to do again.
11:33:51 11 A. Yes.
11:33:52 12 Q. And you were under oath, just like you are right now, aren't
11:33:56 13 you?
11:34:01 14 A. Yes.
11:34:01 15 Q. No further questions, your Honor.
11:34:04 16 THE COURT: Mr. Mayr.
11:34:15 17 MR. ESPER: Your Honor, I move for the admission of
11:34:17 18 Defendant EH-1, exhibit for purposes of demonstrative purposes
11:34:21 19 only, your Honor.
11:34:22 20 THE COURT: What is the number?
11:34:24 21 MR. ESPER: EH -- Defendant's EH-1, your Honor.
11:34:28 22 THE COURT: We've already got a 1.
11:34:30 23 MR. ESPER: I'm sorry. EH-2 would be the other one,
11:34:33 24 your Honor.
11:34:33 25 THE COURT: All right.

11:34:34 1 MR. GARDNER: EH-2 is your note?
11:34:37 2 MR. ESPER: Yes.
11:34:38 3 MR. GARDNER: No objection, your Honor.
11:34:39 4 THE COURT: For demonstrative purposes.
11:34:41 5 MR. ESPER: Thank you, your Honor.

11:34:42 6 CROSS-EXAMINATION

11:34:43 7 BY MR. MAYR:

11:34:43 8 Q. Good morning, Mr. Moreno. My name is Brent Mayr and I
11:34:51 9 represent Jesus Huitron.

11:35:00 10 Early this morning, when Mr. Gardner was asking you
11:35:03 11 questions, he asked you if you knew my client Jesus Huitron. Do
11:35:12 12 you remember that?

11:35:17 13 A. Yes.

11:35:22 14 Q. And your response was, I don't know him.

11:35:28 15 A. Yes.

11:35:30 16 Q. I have no further questions, your Honor.

11:35:34 17 RE-DIRECT EXAMINATION

11:35:34 18 BY MR. GARDNER:

11:35:38 19 Q. Mr. Moreno, I'm holding in my hand what I've marked as
11:35:41 20 Government's Exhibit 407. Do you recall testifying on May 17,
11:35:45 21 2012, in front of Judge Crone up in the Eastern District of
11:35:49 22 Texas?

11:36:04 23 A. Yes.

11:36:06 24 Q. And do you recall in that trial, the question by Mr. Ernest
11:36:11 25 Gonzalez, the assistant United States attorney, was, have you

11:36:13 1 ever been convicted of any felony offenses? Do you recall that
11:36:18 2 question?

11:36:26 3 A. Yes.

11:36:27 4 Q. And do you recall your response was that you were convicted
11:36:34 5 in 2003?

11:36:36 6 A. Yes.

11:36:38 7 Q. And it talks about being in Eagle Pass and you received a
11:36:41 8 one-year sentence, and then, you returned back to Mexico. Do you
11:36:45 9 recall that?

11:36:51 10 A. Yes.

11:36:54 11 Q. And do you recall the questions by Mr. Womack about the fact
11:36:57 12 that you've never testified in court before regarding horses? Do
11:37:03 13 you recall that question?

11:37:12 14 A. Yes.

11:37:14 15 Q. I've looked through this testimony. It's also been
11:37:17 16 available to the defense attorneys. Would you agree with me that
11:37:20 17 there was no question asked of you regarding horses during your
11:37:23 18 last testimony?

11:37:34 19 A. It's the first time I'd ever been in a trial I -- I don't
11:37:49 20 remember if I ever mentioned Tremor Enterprises.

11:37:51 21 Q. Your Honor, I'd offer Government's Exhibit 407 under Rule
11:37:55 22 613(b) as extrinsic evidence of a prior consistent statement,
11:38:00 23 testimony from a previous trial.

11:38:02 24 MR. WOMACK: Objection. Prior consistent statement?

11:38:06 25 MR. GARDNER: Yes.

11:38:07 1 MR. WOMACK: Your Honor, we object because obviously it
11:38:08 2 was created after he had a motive to fabricate. Prior consistent
11:38:14 3 statement has to be made before a person has a reason to lie.

11:38:14 4 MR. GARDNER: I don't think there's that standard.

11:38:17 5 MR. WOMACK: The motive to fabricate. So we object
11:38:19 6 because this was obviously made after he had -- started working
11:38:22 7 for the government.

11:38:23 8 THE COURT: Tender the exhibit to the clerk. How many
11:38:28 9 pages? I'll make a ruling after the noon hour.

11:38:31 10 MR. GARDNER: All right, your Honor. May I inquire
11:38:34 11 further on other subjects?

11:38:35 12 THE COURT: Certainly.

11:38:36 13 MR. GARDNER: Thank you.

11:38:37 14 Q. (BY MR. GARDNER) Now, Mr. Esper asked you some questions
11:38:40 15 about the money that you paid "Chevo" Huitron the \$10,000, and I
11:38:45 16 believe your response was it came off "40's" marihuana account.

11:39:04 17 A. That's right.

11:39:06 18 Q. And were those expenses that you paid the \$10,000, were they
11:39:11 19 "40's" expenses or "Poncho" Cuellar's expenses?

11:39:23 20 A. They were "40's" because it was credit -- counted against
11:39:27 21 "40's" account.

11:39:28 22 Q. And do you know what "Chevo" Huitron did for a living?

11:39:40 23 A. That he, here close to Austin, trained horses.

11:39:49 24 Q. Do you know that there were, in fact, objections made to
11:39:51 25 that, Mr. Piloto raced by the other owners?

11:40:00 1 A. I don't know.

11:40:08 2 Q. Now, when you were asked questions, could you have extensive

11:40:13 3 -- I'm sorry. I should have prefaced that.

11:40:15 4 When the defense attorneys asked you all these

11:40:18 5 questions about the number of times you've talked with members of

11:40:20 6 the government, do you recall those sets of questions?

11:40:35 7 A. Yes.

11:40:35 8 Q. I think you said you had Immigration Customs Enforcement,

11:40:42 9 ICE, FBI, DEA, the ATF, all asking you questions. Do you recall

11:40:47 10 that did you work for the cartel -- the Zetas cartel for a long

11:41:02 11 period of time?

11:41:07 12 A. Yes.

11:41:08 13 Q. And when you cooperated, did you know all the areas that

11:41:12 14 U.S. law enforcement was interested with respect to the cartels?

11:41:26 15 A. Yes.

11:41:27 16 Q. And you know Special Agent Scott Lawson, sitting over here

11:41:30 17 at counsel table?

11:41:35 18 A. Yes.

11:41:35 19 Q. Was he the first federal agent that actually asked you about

11:41:39 20 the quarter horses?

11:41:44 21 A. Yes.

11:41:46 22 Q. And Ms. Williams asked you a question about your family.

11:41:50 23 Why did you bring your wife and children into the United States?

11:42:00 24 A. Well, because they were going to be killed over there.

11:42:03 25 Q. That's all I have, your Honor.

11:42:06 1 MS. WILLIAMS: Nothing further, your Honor.

11:42:09 2 MR. DEGEURIN: We reserve, your Honor, after the

11:42:12 3 decision is made about our bench conference.

11:42:16 4 THE COURT: All right. Okay. Looks like I get to go

11:42:19 5 to work then. Members of the jury, I'll give you a lunch break.

11:42:23 6 Be ready to come back at 1:20. 1:20. Remember the instructions

11:42:29 7 by the Court.

11:43:04 8 (Jury not present.)

11:43:10 9 THE COURT: 1:20.

13:15:59 10 (Lunch recess.)

13:16:02 11 MR. FINN: Your Honor, just for planning purposes, I'm

13:16:05 12 not going to try to figure out if we're going to be in trial on

13:16:06 13 Friday. Have you made a decision on that yet?

13:16:07 14 THE COURT: No later than in the morning, if that will

13:16:11 15 help you.

13:16:12 16 MR. FINN: That will help. Thank you.

13:16:16 17 THE COURT: All right. On Government's Exhibit 407,

13:16:21 18 there are no questions about horses. There are no responses

13:16:30 19 about horses. The issue is, do I submit this whole transcript,

13:16:47 20 which you've all reviewed? Or do I just tell the jury that I've

13:16:50 21 looked at it and there are no questions or any other comment

13:16:53 22 about horses in the transcript of May 17, 2012 and not admit it.

13:17:00 23 You might want to talk about it for just a second.

13:17:03 24 MR. GARDNER: Your Honor.

13:17:04 25 THE COURT: Before you do that, what did we learn about

13:17:06 1 the noon hour with regard to letters, or papers, whatever they
13:17:12 2 are?

13:17:12 3 MR. GARDNER: Your Honor, I'm tendering to the Court an
13:17:14 4 e-mail submitted by my assistant at 11:40: AUSA Gonzalez, Doug
13:17:19 5 has asked me to reach out to you to see if you could e-mail us
13:17:23 6 any, slash, all proffer letters and Giglio material that you
13:17:27 7 might have regarding Hector Moreno. Your prompt attention would
13:17:29 8 really be appreciated. Thanks.

13:17:31 9 Your Honor, I'd submit to the Court, before I came down
13:17:33 10 to court, we have received no response yet.

13:17:36 11 THE COURT: All right.

13:17:37 12 MR. GARDNER: Your Honor, I'm also tendering to the
13:17:38 13 Court what we discussed earlier with respect to the search
13:17:41 14 warrant evidence as 406A. Our editorial comments have been
13:17:45 15 removed. Before I do that, your Honor, let me give it to defense
13:17:50 16 attorneys so they could take a look at it.

13:17:53 17 MR. FINN: Judge, can we hold off on 406A? I think we
13:17:56 18 need to talk.

13:17:57 19 MR. GARDNER: Yeah. No problem.

13:17:58 20 MR. FINN: If that's okay rather than.

13:18:00 21 THE COURT: Sure.

13:18:01 22 MR. FINN: Okay. That's fine.

13:18:03 23 THE COURT: We don't need to know that till the end of
13:18:07 24 the evidence. Okay. So that's a continuing question. So the
13:18:15 25 witness will be retained and available.

13:18:18 1 MR. GARDNER: Yes, sir.

13:18:18 2 THE COURT: All right. Anything else?

13:18:21 3 MR. WOMACK: I think he was still being cross-examined

13:18:24 4 by --

13:18:24 5 THE COURT: Well, I know where we are. I'm not that

13:18:27 6 old. I remember this morning.

13:18:28 7 MR. WOMACK: I -- oh, no. I thought you were saying he

13:18:31 8 would be off the stand right now.

13:18:33 9 THE COURT: No, no. He will continue to be available.

13:18:36 10 MR. WOMACK: Yes, sir.

13:18:36 11 THE COURT: All right. Anything else before I bring in

13:18:38 12 the jury?

13:18:39 13 MS. WILLIAMS: Judge, I don't know if we got a final

13:18:40 14 answer on how you were going to handle this transcript. I mean,

13:18:43 15 the witness has already said he wasn't asked any questions about

13:18:46 16 this, and he didn't answer any questions about horses. That's

13:18:49 17 what the evidence is at this moment.

13:18:51 18 THE COURT: That's right. And he was crossed on it.

13:18:54 19 And I don't remember every question but he was -- actually said

13:19:02 20 he didn't say anything about horses. And the issue is -- and, of

13:19:08 21 course, when he gets him back on direct, I'm sure he's going to

13:19:13 22 point out that none of the other cases had anything to do with

13:19:18 23 horses. And so, this is all about nothing.

13:19:21 24 But y'all continue to amaze me by doing good

13:19:26 25 cross-examination. It's entertaining but, you know, you've

13:19:30 1 crossed somebody that doesn't say anything adverse against your
13:19:33 2 client, which I guess in the old -- I'm too old to forget the
13:19:37 3 first rule of cross-examination.

13:19:38 4 MR. DEGEURIN: Your Honor, may I weigh in just one
13:19:41 5 moment on that issue? It's not just that we don't have the
13:19:50 6 Jencks materials. It's a little deeper than that. We don't know
13:19:53 7 what we don't have. But we do know, according to the witness,
13:19:56 8 that it exists -- not Jencks. Giglio.

13:20:19 9 Anyway, I'm sorry. Your Honor, it's deeper than just
13:20:24 10 whether he said something or didn't say something in that trial.
13:20:28 11 It's deeper than that. We don't have -- we were not given any of
13:20:33 12 the Giglio material. Giglio is not Jencks. We argued Jencks.
13:20:38 13 But it's something that the Supreme Court has said we must have
13:20:43 14 with enough sufficient time to be able to effectively use it.

13:20:46 15 THE COURT: And he's trying to get it and I understand
13:20:48 16 that, and I hope he gets these papers. We don't know if it's
13:20:51 17 Giglio or not. We know it's some papers.

13:20:54 18 What I do know is you're not going to be able to show
13:20:58 19 any more than you're showing: That somebody's trying to get a
13:21:02 20 reduction in sentence or somebody's got immunity and not going to
13:21:05 21 have any charges. You're not going to get anything better than
13:21:07 22 that. I don't care who prepared it.

13:21:09 23 MR. DEGEURIN: Yeah. And I understand.

13:21:10 24 THE COURT: So it's nothing. But y'all go ahead and
13:21:13 25 press it.

13:21:13 1 MR. DEGEURIN: No, no. I understood that's what you
13:21:15 2 meant and I understand that and I get that, Judge.

13:21:17 3 THE COURT: Good.

13:21:17 4 MR. DEGEURIN: But I want you to dignify the issue of
13:21:20 5 not -- I mean, you're talking more like harmless error at this
13:21:24 6 point. I'm talking about a more --

13:21:27 7 THE COURT: Actually, I'm talking really about any kind
13:21:29 8 of prejudice. If I thought there was any kind of prejudice,
13:21:33 9 well, there's not anything more I can do than ask if they can get
13:21:36 10 it and get it to you, and that's what we're going to do. And if
13:21:39 11 it turns out to be something, well, that will be good. If it
13:21:45 12 turns out to be -- I can't imagine how it could be anything
13:21:51 13 better for the defendant than immunity from prosecution use and I
13:21:59 14 hope to heck I get a reduction in my sentence. So far, that's
13:22:03 15 all I've heard.

13:22:04 16 MR. DEGEURIN: And that's experienced trial lawyer
13:22:06 17 speak, and I understand and I accept that. But we still don't
13:22:08 18 know until we see it.

13:22:10 19 THE COURT: All right. And for the record, it should
13:22:20 20 have been given. I'll say that. Any kind of agreements made, if
13:22:26 21 there are any agreements. I don't know. But I do know that I
13:22:30 22 suspect Mr. Moreno is not conversant nor can he read English. My
13:22:47 23 guess is all of these statements that he signed are in English.
13:22:54 24 He's working through a lawyer that seem to represent a lot of
13:23:01 25 people. It reminds me of the -- what is it, the street? Lombard

13:23:10 1 Street, goes every which way in San Francisco.

13:23:14 2 All right. Bring the jury in.

13:23:18 3 MR. ESPER: Judge, it's the crooked-est street in the

13:23:21 4 world.

13:23:22 5 THE COURT: It is if you're running up and down, I

13:23:23 6 suspect.

13:23:24 7 (Jury present.)

13:24:03 8 THE COURT: Members of the jury, during the noon break,

13:24:04 9 after you left the courtroom, did anyone attempt to talk to you

13:24:07 10 about this case?

13:24:08 11 JURORS: No.

13:24:08 12 THE COURT: Have you talked to anybody about the case

13:24:11 13 during the noon break?

13:24:12 14 JURORS: No.

13:24:13 15 THE COURT: And have you learned anything at all about

13:24:15 16 this case, outside the presence of each other in this courtroom?

13:24:18 17 JURORS: No.

13:24:19 18 THE COURT: All right. Show negative responses to all

13:24:20 19 questions by all jurors.

13:24:23 20 (At the bench, on the record.)

13:24:27 21 THE COURT: And I should have done this before the jury

13:24:29 22 came in. It just slipped my mind. Which is it that you wish, a

13:24:34 23 comment by the Court or the transcript?

13:24:37 24 MR. WOMACK: Neither one. They've asked the witness.

13:24:40 25 I think that's good enough, sir.

13:24:41 1 THE COURT: I've got a tender and an objection on the
13:24:44 2 record.

13:24:44 3 MR. DEGEURIN: I think now -- I think --

13:24:46 4 THE COURT: Do you withdraw the objection?

13:24:47 5 MR. WOMACK: No. Subject -- no. It will be subject --

13:24:50 6 we don't want the transcript in.

13:24:51 7 MR. DEGEURIN: Yeah. I think my position is that the
13:24:54 8 Court simply state we've gone through the transcript, there's no
13:25:00 9 questions and no answers about horses.

13:25:02 10 MR. GARDNER: I'm fine with that.

13:25:03 11 THE COURT: All right. Members of the jury, the
13:25:14 12 Government's Exhibit 407, which I'll now make Court Exhibit what
13:25:19 13 number, Mrs. Sims?

13:25:23 14 THE CLERK: Court Exhibit.

13:25:24 15 THE COURT: I think it's 3. Court Exhibit 3 means it's
13:25:28 16 my exhibit, not yours. I reviewed it during the noon hour, and
13:25:34 17 the transcript of the proceedings involving this witness on May
13:25:43 18 17, 2012 in the Eastern District of Texas, there were no
13:25:51 19 questions about horses, and there was no response or any
13:25:57 20 information or testimony regarding horses.

13:26:01 21 All right. I believe you still, Mr. Womack, have the
13:26:05 22 witness. No, no, it was on redirect?

13:26:09 23 MR. GARDNER: I had tendered the witness just prior to
13:26:11 24 the lunch break, your Honor.

13:26:11 25 THE COURT: All right.

13:26:12 1 MR. DEGEURIN: Back around with me?

13:26:14 2 THE COURT: Ms. Williams.

13:26:15 3 MS. WILLIAMS: That's correct.

13:26:16 4 MR. DEGEURIN: And I have no further questions.

13:26:17 5 MR. WOMACK: Sir, I have no questions.

13:26:19 6 MR. ESPER: I just have a couple, your Honor.

13:26:21 7 RE-CROSS EXAMINATION

13:26:21 8 BY MR. ESPER:

13:26:22 9 Q. Mr. Moreno, on redirect examination, Mr. Gardner asked you
13:26:28 10 that when you went to the bridge seeking help, you were in fear
13:26:35 11 for your life, correct?

13:26:44 12 A. That's right.

13:26:45 13 Q. Did you tell Mr. Cuellar that you were going to the bridge
13:26:50 14 before you did?

13:27:06 15 A. No. No. I went to Monterrey. That's where I started
13:27:10 16 making the phone calls, and then, I flew to El Paso.

13:27:13 17 Q. Okay. So you entered at the port-of-entry in El Paso, which
13:27:19 18 is hundreds of miles away, correct?

13:27:28 19 A. Yes.

13:27:28 20 Q. My question to you, again, was, did you talk to Mr. Cuellar
13:27:33 21 and tell him, I'm going to the U.S. to try to save myself?

13:27:50 22 A. No. I didn't speak to anyone because I didn't trust anyone
13:27:52 23 at that time.

13:27:52 24 Q. Okay. Including Mr. Cuellar?

13:27:55 25 A. Everyone.

13:27:56 1 Q. Okay. May I have just one moment, your Honor?

13:28:01 2 THE COURT: Yes, sir.

13:28:20 3 MR. ESPER: Nothing further, your Honor. Thank you.

13:28:23 4 MR. MAYR: I have no further questions, your Honor.

13:28:24 5 THE COURT: Any redirect?

13:28:26 6 MR. GARDNER: No, your Honor. Thank you.

13:28:27 7 THE COURT: This witness needs to be -- remain

13:28:30 8 available. You may step down, sir. Thank you. You may call

13:28:33 9 your next witness.

13:28:34 10 MR. GARDNER: The government calls Diana Reed.

13:29:19 11 (Witness sworn.)

13:29:35 12 THE COURT: I want you to tell us your full name and

13:29:50 13 spell your last name, please.

13:29:51 14 THE WITNESS: Diane Kathleen Reed, R-E-E-D.

13:29:56 15 THE COURT: Thank you.

13:29:58 16 DIANE K. REED, called by the Government, duly sworn.

13:29:58 17 DIRECT EXAMINATION

13:29:58 18 BY MR. GARDNER:

13:29:59 19 Q. Thank you, your Honor.

13:29:59 20 Good afternoon, Ms. Reed. You and I have spoken

13:30:01 21 before; is that correct?

13:30:02 22 A. Yes, sir.

13:30:02 23 Q. Could you please introduce yourself to the jury and tell

13:30:05 24 them what you do for a living?

13:30:07 25 A. My name is Diane Kathleen Reed and I'm the office manager

13:30:12 1 for the Ruidoso Horse Sale in Ruidoso, New Mexico.

13:30:17 2 Q. And what do you do for the Ruidoso Horse Sale?

13:30:21 3 A. I am in charge of, number one, getting the catalog ready,

13:30:26 4 which entails consigners sending in their requests. I take care

13:30:34 5 of all the paperwork prior to the sale. And after the sale, as

13:30:39 6 the buyers buy the horses, then it's my job to record the

13:30:48 7 purchase price, the buyer, their address, the money that comes

13:30:58 8 in, and it more or less -- and then, after that, my job ends with

13:31:03 9 transferring the ownership to -- from the seller to the buyer.

13:31:08 10 Q. And how do you do that?

13:31:11 11 A. There is -- we sell two types of horses. We sell

13:31:17 12 thoroughbreds and quarter horses. Our first sale is what they

13:31:22 13 call New Mexico-bred. All those horses have to be registered

13:31:27 14 with New Mexico. Some of those are thoroughbreds, some of them

13:31:31 15 are quarter horses. The thoroughbreds, we transfer there in the

13:31:35 16 office. The quarter horses, there is a certain form called a

13:31:39 17 transfer report. We fill that out and send it to the American

13:31:45 18 Quarter Horse Association, along with the registration papers,

13:31:50 19 and the association then prepares new registration papers and

13:31:56 20 mails them to the purchaser. That's the standard procedure.

13:32:01 21 Q. Now, I want to turn your attention to one particular sale

13:32:03 22 and that is the September 2010 sale that y'all had. Do you

13:32:10 23 recall the -- that sale before or after the All American race?

13:32:15 24 A. It's before. It's the three days before.

13:32:18 25 Q. And just for the jury's reference, do you recall which horse

13:32:21 1 won that All American race?

13:32:22 2 A. I believe that was Mr. Piloto that won that year.

13:32:26 3 Q. And following the sale, did an individual come and pay for a

13:32:35 4 selection of horses?

13:32:36 5 A. Yes, sir.

13:32:37 6 Q. Do you recall that individual's name?

13:32:39 7 A. That was Francisco Colorado-Cessa.

13:32:43 8 Q. And do you recall how many horses he came to pay for?

13:32:46 9 A. Twenty-three.

13:32:48 10 Q. All right. Could you describe that scenario to the jury,

13:32:52 11 please?

13:32:52 12 A. Well, when we sell a horse out in the arena, we call it,

13:33:02 13 there's a certain form that the ticket runners take to the buyer,

13:33:09 14 and that's a four-page form. The buyer gets one, I get two, and

13:33:16 15 whoever hauls the animal gets the third one -- I mean, the fourth

13:33:21 16 one.

13:33:22 17 Q. Let me stop you right there. I'm showing you Government's

13:33:26 18 Exhibit 408. Is that the form that you were just describing?

13:33:31 19 A. Yes, it is.

13:33:32 20 Q. Okay. You provided that just a blank copy. It's a sample

13:33:35 21 form, correct?

13:33:36 22 A. When this form -- this is -- yes. This is just a blank

13:33:39 23 copy.

13:33:39 24 Q. All right. Your Honor, I would offer Government's Exhibit

13:33:41 25 408 for demonstrative purposes only.

13:33:46 1 THE COURT: Received.

13:33:47 2 MR. WOMACK: No objection.

13:33:48 3 THE COURT: As a demonstrative piece of evidence.

13:33:51 4 Q. (BY MR. GARDNER) If you will, Ms. Reed, could you please

13:33:54 5 hold that up for the jury and show them the separate forms that

13:33:57 6 you were talking about?

13:33:59 7 A. This is an old-fashioned form. It's carbon. There's four.

13:34:05 8 These two I get back.

13:34:08 9 Q. And for the record, that's the white and the yellow one,

13:34:11 10 correct?

13:34:11 11 A. The pink one is the form that goes to the horse hauler.

13:34:15 12 They have to have this to get the horse off of the ground. And

13:34:21 13 this, the gold copy goes to whoever signed the acknowledgment.

13:34:29 14 Sometimes it's an agent. Sometimes it's the actual purchaser of

13:34:32 15 the horse. And this comes into the office when they come to pay.

13:34:44 16 Q. Thank you. Ms. Reed, I'm putting the -- I'll call it the

13:34:56 17 golden copy. All the forms are the same. They're simply carbon

13:35:01 18 copies with different colors, correct?

13:35:03 19 A. That's correct.

13:35:04 20 Q. And so, this is a bigger one, the person who bid on the

13:35:08 21 horse in the arena gets?

13:35:10 22 A. Yes. Now, that form is -- has all the -- the top part is

13:35:16 23 filled out by me with the sale, the date, the consigner, the hip

13:35:22 24 number up in the top right-hand corner. That's all filled out at

13:35:26 25 the time the buyer signs it.

13:35:29 1 Q. Okay. And so, when a buyer makes a purchase or bids in the
13:35:37 2 arena, he gets a copy of this form, correct?
13:35:40 3 A. Yes, he does.
13:35:40 4 Q. All right. And so, how does he take this form and then,
13:35:44 5 make a payment for it with you?
13:35:47 6 A. That there's two ways to pay. We have a line of tellers at
13:35:52 7 the night of the sale. He takes that to them, after the tellers
13:35:59 8 go home, and the next morning, they're brought to me. They bring
13:36:03 9 this gold copy and by that time, that purchase is entered in the
13:36:08 10 computer, and we compare that with what's in the computer to make
13:36:13 11 certain that he's paying for, number one, enough horses.
13:36:17 12 Q. And so, the day following the sale, that's when Francisco
13:36:21 13 Colorado-Cessa appeared in your office?
13:36:22 14 A. Yes, sir.
13:36:24 15 Q. And did he have a handful of these golden tickets?
13:36:27 16 A. Yes, he did.
13:36:28 17 Q. All right. Do you recall how many?
13:36:29 18 A. I believe there was 23.
13:36:31 19 Q. All right. And were they all in his name?
13:36:34 20 A. No, sir. They were in a variety of names, whoever bid on
13:36:38 21 the horse signed it.
13:36:40 22 Q. So what did you do with this ticket -- or these 23 tickets
13:36:44 23 when they were handed to you?
13:36:45 24 A. We transferred the name that was on the ticket, which had
13:36:49 25 already been entered in the computer into Mr. Cessa's name. So

13:36:54 1 we would know the total of the horses that he was paying for.

13:36:58 2 Q. And when Mr. Cessa arrived in your office, did he come by

13:37:03 3 himself or was he accompanied with other individuals?

13:37:05 4 A. No, sir. I believe he had two gentlemen with him. They

13:37:09 5 kind of stood in the background. They never did come into the --

13:37:13 6 into my office.

13:37:14 7 Q. And what was your impression those gentlemen's role?

13:37:18 8 A. Well, they were very attentive to Mr. Cessa. They didn't

13:37:26 9 say anything. They just stood there, and I thought, well, a lot

13:37:30 10 of our customers are very wealthy people and they travel with

13:37:34 11 protection and that occurred to me.

13:37:36 12 Q. You assumed they were bodyguards or protection of some sort?

13:37:40 13 A. Yes, I think so.

13:37:41 14 Q. And did Mr. Colorado-Cessa mention anything about those two

13:37:43 15 people?

13:37:43 16 A. No, sir.

13:37:46 17 Q. And so, you took these 23 forms and when you totalled them

13:37:52 18 up, what was the total?

13:37:55 19 A. It was \$2.1 million plus a little bit.

13:37:59 20 Q. I'm showing you what's already been entered unto evidence as

13:38:11 21 Government's Exhibit 231A, Bates No. 14-160. Do you recognize

13:38:19 22 that check, Ms. Reed?

13:38:20 23 A. Yes. That is what I wrote. Actually, it's \$2.2.

13:38:24 24 Q. \$2.2 million, huh? And this is a record from Ruidoso Downs.

13:38:38 25 Again, for the jury's attention, page No. 14-000160.

13:38:52 1 And right here in the far left-hand column, what are
13:38:56 2 those numbers, Ms. Reed?

13:38:57 3 A. That is the hip number of the horse. That's the succession
13:39:00 4 that they went through the sale. If it's 191, they went through
13:39:04 5 190 first.

13:39:06 6 Q. So 47 was the 47th portion of the sale?

13:39:10 7 A. Yes. Uh-huh.

13:39:11 8 Q. And this is obviously the name?

13:39:12 9 A. Yes.

13:39:12 10 Q. And what is this column?

13:39:14 11 A. That is the purchase price.

13:39:16 12 Q. So you mentioned this check. Whose handwriting is this on
13:39:22 13 the check?

13:39:22 14 A. That's mine.

13:39:23 15 Q. Okay. And could you tell the jury why you filled out the
13:39:26 16 check?

13:39:28 17 A. I'm sorry? What?

13:39:29 18 Q. Could you please explain to the jury why that is your
13:39:31 19 handwriting on the check?

13:39:32 20 A. Well, Mr. Cessa handed me his checkbook and indicating he
13:39:39 21 wanted me to fill it out, which is not uncommon at all. We do
13:39:42 22 that, not a lot but some. As you can see by his signature,
13:39:48 23 sometimes the writing is a little hard to read, so they ask us to
13:39:52 24 write the check.

13:39:53 25 Q. So it's not uncommon?

13:39:54 1 A. I'm sorry?

13:39:54 2 Q. That's not uncommon?

13:39:55 3 A. No. It is not.

13:39:56 4 Q. Okay. Have you ever written a check for this amount before?

13:39:59 5 A. No, sir.

13:39:59 6 Q. That's the most you've ever written a check for?

13:40:02 7 A. Yes, sir.

13:40:03 8 Q. Does the Ruidoso Horse Sales company have a trophy for the

13:40:10 9 top buyer and the top seller?

13:40:12 10 A. Yes.

13:40:14 11 Q. And what are those trophy -- what do they look like?

13:40:17 12 A. They're a running horse with a jockey on board and they're

13:40:19 13 on a wooden base of approximately, I'd say, 12 to 14 inches long

13:40:26 14 and maybe six inches wide. Some of them have a marble base right

13:40:34 15 under the horse. Some of them don't. We've had the same one for

13:40:43 16 years.

13:40:45 17 Q. And who is Lowell Neumayer?

13:40:48 18 A. He is the boss. He is the manager of the horse sale.

13:40:51 19 Q. How many of those horse sale trophies have either you or

13:40:57 20 Lowell Neumayer handed out?

13:40:59 21 A. Since I have been there, we handed one out.

13:41:02 22 Q. And which one was that one?

13:41:04 23 A. That was to Mr. Cessa.

13:41:05 24 Q. And did you physically hand Mr. Cessa that trophy?

13:41:09 25 A. I'm sorry?

13:41:09 1 Q. Did you, you yourself hand it?

13:41:12 2 A. Yes, I did, sir.

13:41:13 3 Q. Why did you do that?

13:41:14 4 A. Well, we don't often sell that many horses to one person,

13:41:20 5 and I felt that it was appropriate to give him a remembrance of

13:41:28 6 the sale. Over the time I have been there, Lowell has quit

13:41:34 7 giving those out because we have dual sellers, dual buyers, and

13:41:41 8 he was afraid we wouldn't have enough.

13:41:46 9 Q. Gets a little confusing sometimes?

13:41:48 10 A. Do what?

13:41:48 11 Q. I said it gets -- with all the sellers and buyers and

13:41:51 12 agents, it might be multiple?

13:41:52 13 A. Yeah.

13:41:55 14 Q. Now, you said earlier that you, you, the Ruidoso Horse Sales

13:42:00 15 company, also handles the transfer of ownership from the buyer to

13:42:05 16 the seller and submit that transfer to AQHA?

13:42:08 17 A. Yes, sir.

13:42:09 18 Q. Did you do it in this case?

13:42:10 19 A. No, sir. We did not.

13:42:12 20 Q. And why not?

13:42:13 21 A. Because we were asked to hold those that they wanted to

13:42:17 22 transfer their own horses.

13:42:20 23 Q. And who asked you to do that?

13:42:22 24 A. Mr. Garcia did.

13:42:24 25 Q. And did you ever meet Fernando Garcia?

13:42:27 1 A. When he came into the office, yes.

13:42:29 2 Q. Okay. And how long after the sale was it that Mr. Fernando

13:42:34 3 Garcia came into the office?

13:42:35 4 A. It was not immediate. I'm going to say maybe a month,

13:42:39 5 something like that.

13:42:41 6 Q. And do you know where those horses were taken according to

13:42:44 7 Mr. Garcia?

13:42:46 8 A. Well, I'm not surely positive. I know that Mr. Garcia

13:42:52 9 was --

13:42:53 10 MR. WOMACK: Objection. She's already answered the

13:42:55 11 question she didn't know.

13:42:56 12 THE WITNESS: I'm sorry.

13:42:57 13 MR. GARDNER: I think she said she knows Mr. Garcia. I

13:43:00 14 believe that's her response, Judge.

13:43:03 15 THE COURT: Ask the question.

13:43:04 16 Q. (BY MR. GARDNER) What did Mr. Garcia tell you with respect

13:43:06 17 to those horses?

13:43:07 18 A. I mentioned something about the horses and he said that they

13:43:12 19 were at a farm in Tularosa.

13:43:14 20 Q. And did he identify who was the owner of that farm?

13:43:18 21 A. Yes, sir. He said Mr. Cessa was.

13:43:21 22 Q. Your Honor, may I have one moment?

13:43:39 23 I just want to point out one horse, No. 102. And if

13:43:43 24 you would, I know it says right there where everyone can see, but

13:43:46 25 could you read that into the record, please?

13:43:48 1 A. No. 102?

13:43:49 2 Q. Yes, ma'am.

13:43:49 3 A. That's First Fly Down.

13:43:50 4 Q. And the purchase price?

13:43:51 5 A. 300,000.

13:43:53 6 Q. Thank you, ma'am. Your Honor, that's all the questions I

13:43:55 7 have.

13:43:59 8 MS. WILLIAMS: No questions.

13:44:05 9 CROSS-EXAMINATION

13:44:05 10 BY MR. DEGEURIN:

13:44:18 11 Q. It's Ms. Reed, isn't it?

13:44:19 12 A. Yes.

13:44:20 13 Q. Do you still work for the Ruidoso -- is it called Ruidoso

13:44:24 14 Downs or?

13:44:25 15 A. It's called the Ruidoso Horse Sale. I do not work for

13:44:28 16 Ruidoso Downs.

13:44:29 17 Q. You didn't work for the race track?

13:44:30 18 A. No, sir.

13:44:32 19 Q. But the auction is held somewhere near the race track?

13:44:35 20 A. Yes. We're on the adjoining property.

13:44:39 21 Q. And I know this is going back a while. Testing your memory.

13:44:48 22 If you don't remember, you just tell me.

13:44:50 23 A. I will.

13:44:50 24 Q. But were there a lot of people at the auction?

13:44:53 25 A. Oh, yes, sir. Thousands.

13:44:56 1 Q. Thousands. How many horses were purchased?

13:45:01 2 A. I believe that year, this is called the select quarter horse

13:45:06 3 sale. There were 530 or something like that.

13:45:11 4 Q. And 530 and they all sold in one day?

13:45:16 5 A. No, sir. Three nights.

13:45:18 6 Q. Okay. Three nights?

13:45:19 7 A. Uh-huh.

13:45:20 8 Q. And they -- do you recall which night it was that the

13:45:26 9 tickets were brought to you for payment of the horses?

13:45:29 10 A. This was on Monday morning, not one of the nights.

13:45:33 11 Q. So it's not like every night, they bring tickets -- tickets

13:45:39 12 are brought to you.

13:45:40 13 A. They do not -- well, some of the people will come in to me

13:45:42 14 because they know me and want to visit, to pay me instead of

13:45:45 15 going to the tellers. The tellers are only open during the sale

13:45:49 16 nights.

13:45:50 17 Q. And had you met Mr. Colorado before -- ever before?

13:45:56 18 A. Who?

13:45:57 19 Q. Mr. Colorado?

13:45:58 20 A. No. I don't believe I had.

13:46:00 21 Q. Did you refer to him as Cessa?

13:46:06 22 A. Uh-huh.

13:46:06 23 Q. Had you met Mr. Cessa ever before?

13:46:09 24 A. No, sir.

13:46:10 25 Q. Have you seen him before or since that day?

13:46:14 1 A. No, sir.

13:46:15 2 Q. That day that you believe that you remember seeing him at

13:46:19 3 the sale?

13:46:19 4 A. Not that I remember, no. I haven't seen him since and I'm

13:46:22 5 not certain about before.

13:46:24 6 Q. Okay. So it would have been a -- basically a total stranger

13:46:29 7 to you that brought in the tickets?

13:46:33 8 A. Uh-huh.

13:46:35 9 Q. And there were two people with him?

13:46:37 10 A. Yes, sir.

13:46:39 11 Q. That seemed to be with him?

13:46:40 12 A. Uh-huh.

13:46:41 13 Q. And attentive to him?

13:46:42 14 A. Uh-huh.

13:46:43 15 Q. Could you tell whether or not they could speak English?

13:46:46 16 A. No. I could not.

13:46:47 17 Q. Could you tell whether or not Mr. Colorado could speak

13:46:50 18 English?

13:46:52 19 A. I just don't recall. I don't recall how much we conversed.

13:46:58 20 I just don't recall.

13:47:03 21 Q. When you were preparing -- and I don't mean that in a bad

13:47:08 22 way, but I don't know how often you appear in court. Are you a

13:47:12 23 witness very often?

13:47:13 24 A. No, sir.

13:47:14 25 Q. Okay. I suppose you have questions like, well, how do I do

13:47:20 1 this, or what do I say, or that sort of thing. Did you have an
13:47:24 2 opportunity to prepare for your testimony today?

13:47:28 3 A. Well, of course, there's a little brochure explaining what
13:47:31 4 to do, but as far as preparing prepared questions, no.

13:47:36 5 Q. Well, oftentimes, the lawyer will ask you questions outside
13:47:41 6 the courtroom and expect that you will probably answer the same
13:47:45 7 way inside the courtroom.

13:47:47 8 A. I was asked questions and I responded the same way in as I
13:47:52 9 did out.

13:47:53 10 Q. Was that recently or a while back?

13:47:56 11 A. No. Just recently.

13:47:58 12 Q. Like this week or last week?

13:48:01 13 A. This week. Uh-huh.

13:48:03 14 Q. Before that, had you been interviewed by anybody to ask you
13:48:07 15 questions about this --

13:48:08 16 A. Yes.

13:48:09 17 Q. -- particular sale?

13:48:09 18 A. We had a phone interview and asking basically the same
13:48:18 19 questions that, you know, we're discussing right now.

13:48:21 20 Q. So you had a phone interview first?

13:48:23 21 A. Yes.

13:48:23 22 Q. That would have been -- when would that have been
13:48:26 23 approximately?

13:48:26 24 A. I'm going to say ten days ago, something like that, a week,
13:48:29 25 ten days.

13:48:29 1 Q. Before that ten days ago, you had not talked with anybody
13:48:35 2 about this matter, about the matter you're testifying about?
13:48:39 3 A. You mean from the prosecuting attorney's office or what?
13:48:42 4 Anybody?
13:48:43 5 Q. Well, let's -- yeah, okay. Prosecuting attorney's office.
13:48:47 6 A. We had a meeting several weeks, months ago, way back when --
13:48:55 7 with some of the people.
13:48:57 8 Q. And were you shown photographs to look at?
13:49:02 9 A. No, sir.
13:49:03 10 Q. Have you ever been shown any photographs?
13:49:06 11 A. No. Of what?
13:49:08 12 Q. People.
13:49:09 13 A. No, sir. No.
13:49:13 14 Q. You could be a lawyer. You want to know the question before
13:49:19 15 you answer it. That's the way you should be.
13:49:26 16 So a while back, you were interviewed, you met and
13:49:30 17 shown no photographs of anyone?
13:49:32 18 A. That is correct.
13:49:33 19 Q. And then, a week or so ago -- and then, you had a telephone
13:49:38 20 interview?
13:49:38 21 A. Yes.
13:49:39 22 Q. Probably to explain maybe how the system works out there at
13:49:43 23 the auction?
13:49:44 24 A. Yes. I explained basically what I explained a few minutes
13:49:48 25 ago, how the paperwork is routed, and so forth.

13:49:52 1 Q. And then, you met about a week ago, tell you when you might
13:50:00 2 testify and some of the questions that might be asked you?
13:50:04 3 A. We did not. Me, this was the phone conversation.
13:50:07 4 Q. Phone call.
13:50:08 5 A. Yes.
13:50:08 6 Q. So since the phone conversation, you've spoken to nobody?
13:50:11 7 A. Until today.
13:50:12 8 Q. Until today. And that was like lunch hour or something?
13:50:15 9 A. Yeah. Right before lunch.
13:50:18 10 Q. And were you shown any photographs then?
13:50:19 11 A. No, sir.
13:50:21 12 Q. When was the first time that -- so what year and what month
13:50:33 13 was this?
13:50:34 14 A. This was September of 2010. Our sale is always Labor Day.
13:50:42 15 Q. And do you recognize the person you talked to in September
13:50:52 16 of 2010?
13:50:53 17 A. You mean that came into the office?
13:50:54 18 Q. Uh-huh. Yes.
13:50:56 19 A. Where am I supposed to look?
13:51:00 20 Q. Well, let's play a game. Not at the prosecutor's table.
13:51:04 21 A. Well.
13:51:09 22 Q. Oh, yeah. You and I have something in common. I knew that.
13:51:12 23 If you would stand up, it would be helpful.
13:51:17 24 A. Do I recognize anyone?
13:51:18 25 Q. Yes.

13:51:21 1 A. I can't say that I do. I'm sorry.

13:51:25 2 Q. Okay. You don't have to be sorry about anything.

13:51:32 3 Now, when a -- when people bid on horses at the

13:51:38 4 auction, is there any requirement that the person bidding have to

13:51:42 5 be the person that pays for the horse?

13:51:45 6 A. No.

13:51:47 7 Q. In fact, it's very common, Ms. Reed -- is it Mrs. Reed or

13:51:52 8 Ms. Reed?

13:51:53 9 A. Ms.

13:51:54 10 Q. Ms. Okay. With an M-S, right?

13:51:56 11 A. Uh-huh.

13:51:57 12 Q. It's common, Ms. Reed, that people will bid on behalf of

13:52:01 13 other people?

13:52:02 14 A. Yes. It's very common.

13:52:04 15 Q. All right. The people that -- and I guess it's also common

13:52:10 16 experts in horses helping people bid?

13:52:14 17 A. Yes.

13:52:17 18 Q. Then -- this is the part I don't know. You can educate me.

13:52:25 19 After the bidding stops and they go, "sold American,"

13:52:31 20 or whatever they say, then does the bidder get a piece of paper

13:52:35 21 that shows that they won the bid?

13:52:39 22 A. We have what we call ticket runners, and that form that Mr.

13:52:44 23 Gardner showed, the four-page form, that has information printed

13:52:49 24 on the top of it with those hip numbers, the name of the

13:52:52 25 consigner, the name of the horse, blah, blah. That form is taken

13:52:57 1 by our ticket runner to the person that the bid taker points out

13:53:05 2 he bid. He got the final hammer on that horse.

13:53:08 3 Q. Okay.

13:53:09 4 A. And that's taken over to him and he signs it.

13:53:14 5 Q. Right there on the spot?

13:53:16 6 A. Yes, sir.

13:53:18 7 Q. And then, in this case two or three days later, someone

13:53:23 8 comes in with the tickets?

13:53:24 9 A. Yes, sir.

13:53:25 10 Q. And there's no requirement that that person be the bidder?

13:53:30 11 A. That's correct.

13:53:32 12 Q. And that person that pays for those tickets that you make

13:53:40 13 that list of the horses that correspond with each ticket, right?

13:53:44 14 A. I'm sorry. What was the question?

13:53:46 15 Q. Make that list that we saw up on the board.

13:53:50 16 A. Uh-huh.

13:53:50 17 Q. That this all the hip numbers of those tickets?

13:53:54 18 A. Yes.

13:53:54 19 Q. And the price paid, sold for?

13:53:58 20 A. Yes.

13:54:02 21 Q. How do you determine -- the person that paid for that day,

13:54:08 22 is that necessarily going to be the owner?

13:54:12 23 A. Not necessarily. No.

13:54:14 24 Q. And that's not uncommon either, is it?

13:54:19 25 A. I would not say it's uncommon. I would say out of 100

13:54:27 1 horses that sold, perhaps two of them are paid by somebody that
13:54:33 2 the horses are not going to go to perhaps.

13:54:37 3 Q. But they don't have to be there in person to pay?

13:54:39 4 A. No. They don't.

13:54:40 5 Q. So someone could pay and not be present or someone could be
13:54:45 6 present and pay and not be the owner?

13:54:46 7 A. That is true.

13:54:47 8 Q. Or either way?

13:54:48 9 A. That is true.

13:54:49 10 Q. After the -- that list is made -- by the way, is that list
13:54:57 11 that we saw on the board, is that signed any way by the person
13:55:01 12 paying?

13:55:01 13 A. That list is prepared off of those forms that you saw.

13:55:06 14 Those forms and our bookkeeping department and that list is made
13:55:12 15 off of those forms.

13:55:13 16 Q. So as the person leaves, that list is --

13:55:16 17 A. No, sir. That's done immediately after the hammer hits.

13:55:22 18 That form then goes to a girl who sits there and enters all that
13:55:26 19 information into the computer. So it's done before we close the
13:55:33 20 sale that night.

13:55:36 21 Q. And then, is there any communication between that night and
13:55:40 22 the day that the payment is made?

13:55:43 23 A. What do you mean? Communication?

13:55:46 24 Q. Well, you've got a list of horses?

13:55:47 25 A. Yes.

13:55:48 1 Q. You've got a list of bidders?

13:55:49 2 A. Right.

13:55:50 3 Q. Bidders are not necessarily going to be the person that

13:55:53 4 pays?

13:55:54 5 A. Right.

13:55:55 6 Q. So I would assume there's no communication like, mister

13:56:02 7 so-and-so, you won this bid and you need to pay up?

13:56:05 8 A. No. The only communication would be is if we had a problem

13:56:10 9 with his address or something like that. But no.

13:56:15 10 Q. When do you get the address?

13:56:18 11 A. As he signs that ticket, the address is put on there.

13:56:24 12 Q. The ticket that they bring to your office?

13:56:26 13 A. Exactly.

13:56:29 14 Q. But not that night. It was at another time -- oh, I see.

13:56:33 15 There's triplicate copies of that ticket?

13:56:35 16 A. Right.

13:56:42 17 Q. You make notations -- or did you make notations of your own

13:56:46 18 about this particular transaction other than the bid papers that

13:56:52 19 we've seen?

13:56:53 20 A. No, sir.

13:57:18 21 MR. DEGEURIN: All right, Judge. Thank you, Ms. Reed.

13:57:20 22 No further questions.

13:57:22 23 THE COURT: Mr. Womack.

13:57:22 24

13:57:24 25

13:57:24 1 CROSS-EXAMINATION

13:57:24 2 BY MR. WOMACK:

13:57:28 3 Q. Good afternoon, Ms. Reed.

13:57:29 4 A. Hello.

13:57:30 5 Q. I'm Guy Womack. I live in Houston and I represent Fernando

13:57:34 6 Garcia. You know Fernando, don't you?

13:57:38 7 A. I know him. He walked in the office to pick up some

13:57:40 8 paperwork.

13:57:41 9 Q. Fernando, stand up.

13:57:43 10 A. Oh, there --

13:57:44 11 Q. That's him sitting there, isn't it?

13:57:45 12 A. I think so.

13:57:46 13 Q. Come here, Fernando, so she could see you. Is this Fernando

13:57:52 14 Garcia?

13:57:52 15 A. Yes.

13:57:53 16 Q. Okay. Grab a seat. You've known him for some time, haven't

13:57:57 17 you?

13:57:59 18 A. Well, he came in in 2010 and I don't believe I've seen him

13:58:07 19 but maybe once since.

13:58:08 20 Q. You know he has come in before to Ruidoso and actually

13:58:11 21 represented a number of buyers, not just Mr. Colorado but others,

13:58:14 22 as well?

13:58:15 23 A. Well, perhaps. I can't say. I don't know.

13:58:20 24 Q. Are you aware that he's even bought one or two horses at

13:58:24 25 Ruidoso himself?

13:58:25 1 A. Yes.

13:58:25 2 Q. Okay. And in regards to this particular sale where Mr.

13:58:31 3 Colorado bought some horses, you told us that Fernando came in

13:58:36 4 and told you to hold the registration certificates?

13:58:40 5 A. I don't know if he came in or called me. One or the other.

13:58:43 6 Q. Correct. It may have been another call. Do you recall that

13:58:47 7 when he told you that, he said the reason was because these are

13:58:50 8 expensive horses and he wanted to collect all of the certificates

13:58:53 9 at once and have them delivered to Mr. Colorado rather than

13:58:58 10 mailing them into Mexico? Do you remember that?

13:59:01 11 A. No.

13:59:02 12 Q. You don't remember what the reason was?

13:59:04 13 A. No. And it's a buyer's prerogative. They can do that.

13:59:09 14 He's not the only one that ever did that. It's their

13:59:13 15 prerogative, so I don't question them. It's their business.

13:59:15 16 Q. Okay. Thank you.

13:59:17 17 A. You're welcome.

13:59:17 18 Q. No further questions.

13:59:20 19 MR. ESPER: Nothing, your Honor.

13:59:21 20 MR. MAYR: I have no questions, your Honor.

13:59:22 21 THE COURT: Any redirect?

13:59:25 22 MR. GARDNER: Yes, your Honor. Thank you.

13:59:26 23 RE-DIRECT EXAMINATION

13:59:26 24 BY MR. GARDNER:

13:59:28 25 Q. Ms. Reed, I believe my line of questions follow up Mr.

13:59:34 1 DeGeurin's and Mr. Womack's. I want to talk about some years.

13:59:39 2 Do you recall your testimony on the question of whether

13:59:41 3 you'd ever seen Mr. Colorado-Cessa before or Mr. Fernando Garcia?

13:59:48 4 A. Well, I don't think I'd ever seen Mr. Cessa before. And I

13:59:53 5 could have seen Mr. Garcia, but I see so many people, I just --

14:00:00 6 didn't stick. I'm sorry.

14:00:01 7 Q. No. That's fine. No reason to say you're sorry.

14:00:05 8 How long did you work at the Ruidoso Horse company?

14:00:07 9 A. I went to work there in -- in late 2003.

14:00:16 10 Q. So from 2003 to 2012 -- let me back up. How many auctions

14:00:25 11 does the Ruidoso Horse company have each year?

14:00:27 12 A. Two.

14:00:28 13 Q. Two. So from 2003 to 2012, I have that as nine years. So

14:00:32 14 over 18 auctions, you've only seen Colorado-Cessa buy horses on

14:00:37 15 one occasion?

14:00:40 16 A. Yes.

14:00:42 17 Q. And the same question for Mr. Garcia.

14:00:46 18 A. That I can recall, that's all.

14:00:48 19 Q. Thank you, ma'am. That's all I have.

14:00:51 20 THE COURT: Any further questions, counsel?

14:00:53 21 MS. WILLIAMS: No, your Honor.

14:01:09 22 RE-CROSS EXAMINATION

14:01:09 23 BY MR. DEGEURIN:

14:01:16 24 Q. Are you -- now we're going to play a legal game here. Are

14:01:20 25 you saying you don't believe Mr. Colorado-Cessa ever bought any

14:01:28 1 horses after that date, or you don't remember whether or not he
14:01:32 2 ever bought any horses?

14:01:33 3 A. After 2010?

14:01:35 4 Q. Yes, ma'am. Or someone on his behalf or some --

14:01:41 5 A. I did not research back to 2003. Actually, the records are
14:01:48 6 archived and unless someone asks me specifically for a year, it
14:01:53 7 could have been when I did not, you know, research the archives.

14:01:58 8 But recently, no.

14:02:02 9 Q. Okay. So you did research forward from 2010, '11, '12, you
14:02:11 10 looked that way, but you didn't look backwards?

14:02:15 11 A. I cannot recall the exact years that I was requested to pull
14:02:21 12 those records. The years that I requested the records be pulled,
14:02:27 13 I believe Mr. Cessa only purchased in that one year. But I would
14:02:32 14 not swear to that.

14:02:35 15 Q. The records that you pulled, I'm going to try to reword it,
14:02:40 16 and you tell me whether or not you agree with it.

14:02:43 17 You can't remember exactly what records you were asked
14:02:46 18 to look at, but whichever ones you did look at, you -- it is your
14:02:51 19 testimony today, your belief today that of those you looked at,
14:02:54 20 the records don't reflect Mr. Cessa was involved with any horses
14:02:59 21 except 2010?

14:03:00 22 A. That's the way I recall.

14:03:01 23 Q. Okay. Thank you, Ms. Reed.

14:03:03 24 THE COURT: Mr. Womack?

14:03:04 25 MR. WOMACK: No questions, your Honor.

14:03:05 1 THE COURT: Mr. Esper?

14:03:07 2 MR. ESPER: No, your Honor.

14:03:08 3 MR. MAYR: No, Judge.

14:03:09 4 MR. GARDNER: May the witness be excused, your Honor?

14:03:12 5 THE COURT: You may be excused, ma'am.

14:03:14 6 Call your next witness.

14:03:16 7 MR. GARDNER: Thank you, your Honor. The government

14:03:17 8 calls Mr. Alfonso Del Rayo-Mora.

14:04:01 9 (Witness sworn.)

14:04:30 10 THE COURT: If you will, sir, I'd like for you to tell

14:04:33 11 me your full name and spell your last, please.

14:04:35 12 THE WITNESS: Alfonso Del Rayo-Mora, D-E-L, R-A-Y-O.

14:04:53 13 ALFONSO DEL RAYO-MORA, called by the Government, duly sworn.

14:04:53 14 DIRECT EXAMINATION

14:04:53 15 BY MR. GARDNER:

14:04:55 16 Q. Good afternoon, Mr. Del Rayo. You and I have met before,

14:04:57 17 correct?

14:04:57 18 A. Yes.

14:04:57 19 Q. Could you please introduce yourself to the jury? Tell them

14:04:59 20 what you do for a living, how old you are, and where you are

14:05:01 21 from.

14:05:02 22 A. Yes. My name is Alfonso Javier Del Rayo-Mora. I'm from

14:05:07 23 Veracruz, Veracruz in Mexico. I do -- I've been doing real

14:05:13 24 estate business and it's about 15, 16 years ago. I'm 46 years

14:05:20 25 old. I'm also a father with family.

14:05:28 1 Q. Sir, your English is much better than my Spanish, but you
14:05:30 2 requested the interpreter back there in case you need --
14:05:32 3 A. Yes, sir.
14:05:33 4 Q. -- need a word interpreted, correct?
14:05:35 5 A. Yes, sir.
14:05:35 6 Q. Please feel free to take advantage of that.
14:05:37 7 A. Thank you.
14:05:38 8 Q. Mr. Del Rayo, how much would you estimate your net worth to
14:05:46 9 be?
14:05:46 10 A. Between 20 and 25 million.
14:05:50 11 Q. And that's U.S. dollars, correct?
14:05:51 12 A. Yes.
14:05:52 13 Q. Is that based on your real estate investments?
14:05:54 14 A. Yes.
14:05:56 15 Q. You were originally indicted in this case; is that correct?
14:06:00 16 A. Yes, sir.
14:06:02 17 Q. You were charged as a criminal defendant?
14:06:05 18 A. Yes.
14:06:05 19 Q. So when the government made arrests in June 2012, where were
14:06:10 20 you?
14:06:10 21 A. I was in Veracruz City.
14:06:13 22 Q. And how did you come to learn of the indictment?
14:06:16 23 A. I was called by one of the agents and he explained me what's
14:06:22 24 my situation, and I told him that I didn't have anything to do
14:06:26 25 with that. I told him what happened to me. And I decided to

14:06:32 1 come over to the states of any own will, try to clear everything.

14:06:40 2 Q. And when you came to the United States, had you already or

14:06:44 3 previously contacted a lawyer in the United States?

14:06:46 4 A. No.

14:06:47 5 Q. And so, did you turn yourself in and did Special Agent

14:06:50 6 Lawson meet you at the airport?

14:06:51 7 A. Yes. He called me, like, around the first day of July,

14:06:59 8 within a week I was here at San Antonio airport, and they took me

14:07:06 9 over here to Austin.

14:07:10 10 Q. And why, having protections of the country in Mexico, did

14:07:14 11 you make the decision to come to the United States?

14:07:16 12 A. Can you repeat that, please?

14:07:19 13 Q. Sure. Why did you make the decision, knowing you were under

14:07:22 14 indictment in the United States, to come and turn yourself in?

14:07:26 15 A. Because I wanted to clear my whole situation because I know

14:07:33 16 that I never been in a criminal action of any way.

14:07:42 17 Q. When you came to the United States, you told me what had

14:07:45 18 happened to you. So I want to turn your attention to December of

14:07:50 19 2010. Could you please tell the jury what happened to you in

14:07:53 20 December 2010?

14:07:54 21 A. On December 10, 2010, I was kidnapped. I was kidnapped by a

14:08:01 22 group of between 12 and 15 people coming out of the restroom bar

14:08:08 23 at 4:30 in the morning, and they took me to a security -- to a

14:08:16 24 safe house and they told me that they were Zetas and they wanted

14:08:24 25 me -- they wanted from me 15 million pesos, which is about

14:08:28 1 four-and-a-half-million dollars.

14:08:31 2 Q. And when they took you or kidnapped you, did they inflict
14:08:35 3 any injuries upon you?

14:08:37 4 A. Yeah. They beat me up. They beat me up pretty bad. I
14:08:42 5 thought I was going to be killed.

14:08:46 6 Q. Showing you Government's Exhibit 324A through J. Did you
14:08:53 7 provide me with those pictures, sir?

14:08:55 8 A. Yes, sir.

14:08:55 9 Q. If you could look through them just to make sure that they
14:08:58 10 are true and accurate.

14:09:16 11 A. Yes, sir.

14:09:18 12 Q. Your Honor, I'd offer Government's Exhibits 324A through J.

14:09:51 13 THE COURT: Hearing no objection, 324A through J are
14:09:57 14 received.

14:10:02 15 MR. GARDNER: 324A.

14:10:04 16 THE COURT: 324A through J. Thank you.

14:10:07 17 Q. (BY MR. GARDNER) Now, there's a little bit of a glare on the
14:10:09 18 screen, Mr. Del Rayo, but what did they do to your hand here?

14:10:14 19 A. I was hit by -- I was hit, all of my body, with the end of,
14:10:22 20 I don't know, AK-47, AR-15, you know, with the end. I was hit
14:10:29 21 all my body like that.

14:10:30 22 Q. We're talking that's commonly referred to as the buttstock
14:10:34 23 of the weapon?

14:10:34 24 A. Yeah. And they broke two of my fingers.

14:10:38 25 Q. Two of your fingers?

14:10:39 1 A. Yeah.

14:10:40 2 Q. Showing you Government's Exhibit 34B. And what happened

14:10:46 3 there, sir?

14:10:47 4 A. I was hit in the face, too, and I was also hit in like my --

14:10:53 5 in my head. I needed surgery.

14:11:45 6 Q. There's a large bruise under your eye. And your eye is red,

14:11:50 7 a number of burst blood vessels in your eye?

14:11:52 8 A. Yes.

14:11:57 9 Q. I'm showing you 324G. What is this round mark up here on

14:12:02 10 the top of your head?

14:12:03 11 A. Hits with, you know, with the point of the AK-47, you know,

14:12:09 12 the whole -- I don't know.

14:12:11 13 Q. The muzzle, the rifle barrel?

14:12:12 14 A. Yeah.

14:12:15 15 Q. And, again, another view of the other and what did they hit

14:12:20 16 you with here?

14:12:21 17 A. Same.

14:12:21 18 Q. Same thing? And, sir, it's hard to tell here on 324I, but

14:12:31 19 where did this injury come from?

14:12:33 20 A. Same thing.

14:12:38 21 Q. Let me show you, this is you in the hospital. Again, is

14:12:42 22 this your broken hand?

14:12:43 23 A. Yes.

14:12:43 24 Q. And you mentioned something earlier about surgery. What

14:12:45 25 kind of surgery did you have to have?

14:12:47 1 A. They had to --

14:13:04 2 THE INTERPRETER: Had a plastic surgeon come in and

14:13:06 3 have all the circular scarring removed.

14:13:11 4 A. And they had to re-break my fingers so they can put them in

14:13:16 5 its place.

14:13:21 6 Q. (BY MR. GARDNER) 324A. They had to re-break these fingers?

14:13:24 7 A. Yes.

14:13:25 8 Q. And that was the subsequent picture of the cast, correct?

14:13:27 9 A. Yes.

14:13:29 10 Q. And also, as the defense attorneys have been provided, you

14:13:34 11 provided me with a number of hospital bills along that date to

14:13:38 12 show me the --

14:13:39 13 A. Yes.

14:13:39 14 Q. To verify you being in the hospital, correct?

14:13:42 15 A. Yes, sir.

14:13:42 16 Q. And how long, again, were you in captivity?

14:13:46 17 A. Nine days.

14:13:48 18 Q. And you mentioned earlier, something about a 50-million-peso

14:13:51 19 ransom?

14:13:52 20 A. Yes.

14:13:52 21 Q. And could you pay that ransom?

14:13:55 22 A. No.

14:13:55 23 Q. And why not?

14:13:56 24 A. I didn't have the cash. I mean, all the money that -- well,

14:14:01 25 all of my assets are in properties and real estate properties.

14:14:08 1 Q. And how did you come to be released?

14:14:12 2 A. For some reason, they found out that they were not going to

14:14:16 3 get the money from me. And the other side, this is something

14:14:22 4 that I knew after I was released. My wife called people in the

14:14:26 5 government of the state, for some reason, they got people helping

14:14:31 6 her try to contact where I was, with whom; and for some reason,

14:14:41 7 after nine days, they let me free with no pay at all.

14:14:47 8 Q. And, sir, after you were released, were you approached by

14:14:51 9 someone?

14:14:52 10 A. Yeah, but not right away. It passed about -- I was released

14:15:00 11 the 18th of December, and I believe a week, a week and a half

14:15:08 12 after that, I was called by a person called Jose Guillermo

14:15:15 13 Herrera-Mendoza, which at the time was Secretary of

14:15:18 14 Communications of the state in the government of Veracruz. He

14:15:22 15 told me that he needed to talk to me. He needed to go to my

14:15:27 16 house. He needed to get someone to my house that needed to talk

14:15:33 17 to me about my kidnapping.

14:15:37 18 I told him, yeah, just let me know what day and I'll

14:15:43 19 wait for you here. So that date came, you know, after two or

14:15:48 20 three days, and when he got home, he got home with Carlos Nayen.

14:15:54 21 Q. And let me show you a picture, sir, see if you recognize

14:15:57 22 that. Is that the person you recognize as Carlos Nayen?

14:16:07 23 A. Yes, sir.

14:16:08 24 Q. Your Honor, for the record, that's 335E.

14:16:10 25 Now, I want to talk a little bit about Mr. Guillermo

14:16:13 1 Herrera. What did you say his role was?

14:16:17 2 A. Yeah. He was at the time Secretary of Communications, which

14:16:22 3 is one of the secretary -- one of the top positions in the

14:16:29 4 government of the state of Veracruz.

14:16:31 5 Q. And who was the governor at that time?

14:16:35 6 A. At that time, it was a -- he had like a week or two weeks

14:16:42 7 the new governor, which is now governor -- his name is Javier

14:16:47 8 Duarte. But he used to be Secretary of Communications since the

14:16:53 9 other administration with Fidel Herrera.

14:16:56 10 Q. Fidel Herrera was the previous governor?

14:16:59 11 A. Yeah. He was the one that put Guillermo Herrera as a

14:17:03 12 Secretary of Communications.

14:17:05 13 Q. So would I be correct in saying that Guillermo Herrera,

14:17:08 14 Secretary of Communications, that's a political position?

14:17:12 15 A. Yes, sir.

14:17:13 16 Q. And so, could you refresh the jury, again, on the date that

14:17:17 17 he and this individual Carlos Nayen came to your house?

14:17:21 18 A. It was between a week, a week and a half after I was

14:17:25 19 released.

14:17:27 20 Q. And were you introduced to Carlos Nayen?

14:17:30 21 A. Yeah.

14:17:31 22 Q. And what did Guillermo Herrera say Mr. Nayen's position was?

14:17:36 23 A. Well, Guillermo had told me that this guy wanted to talk to

14:17:40 24 me about my kidnap. Okay. So I said, well, I'm here, you know,

14:17:48 25 I don't know what you want to talk about. So he tried explaining

14:17:52 1 me -- he started explaining me that I was saved by his boss, you
14:18:02 2 know, and because of that, I had to do -- as a payback, I had to
14:18:10 3 come over to Oklahoma City between the 13 and 15 of January and
14:18:17 4 buy a horse.

14:18:18 5 Q. And what did you tell him with respect to your injuries?

14:18:22 6 A. Yeah. I told him that I had to have surgery during those
14:18:29 7 days. He told me that I had to do the best to be on time to
14:18:36 8 Oklahoma City in case of I wouldn't show, I will be in problems
14:18:44 9 again.

14:18:44 10 Q. And did he say anything with regards to the safety of not
14:18:47 11 only you but your family?

14:18:48 12 A. About my family, my wife, my kids.

14:18:51 13 Q. And when he said bosses, did he say any names, specifically?

14:18:57 14 A. No.

14:19:00 15 Q. And so, did you go ahead and have the surgery as scheduled?

14:19:03 16 A. Yeah. I did move my surgery so I could be on time to fly to
14:19:11 17 Oklahoma and be on the 13 of January at Oklahoma, which I did.

14:19:16 18 Q. And when were you released from the hospital?

14:19:18 19 A. I was released from the hospital like around 10 or 11. I
14:19:24 20 don't recall.

14:19:25 21 Q. Tenth or 11th of January?

14:19:26 22 A. Yeah. I just had time to go and pick up my kids to Mexico
14:19:31 23 City because they were there by -- because of security, and we
14:19:38 24 went back to Veracruz and took an airplane to San Antonio, then
14:19:43 25 to Oklahoma.

14:19:44 1 Q. And so, when you got to Oklahoma, did anybody meet you when
14:19:48 2 you got off the plane?

14:19:49 3 A. No. I got to Oklahoma and I wait like -- I waited like two
14:19:54 4 hours, no one showed. So Carlos Nayen with two other persons
14:20:01 5 showed, and then, we left the airport.

14:20:04 6 Q. Do you recall the names of the two other persons?

14:20:06 7 A. Yeah. One is Fernando Solis and the other guy is Carlos'
14:20:14 8 brothers, Antonio, Antonio Nayen.

14:20:16 9 Q. Okay. Now, when you were told you have to come to buy a
14:20:20 10 horse in the United States, had you ever bought any horses
14:20:23 11 before?

14:20:23 12 A. No. I never had anything to do with any horses.

14:20:27 13 Q. Okay. Do you know anything about the quarter-horse racing?

14:20:30 14 A. Nothing. No.

14:20:33 15 Q. When you get to Oklahoma, what time of the day is that,
14:20:36 16 morning or night?

14:20:37 17 A. Early in the morning. Like the first flight.

14:20:40 18 Q. And so, after Carlos Nayen and Fernando Garcia and Carlos'
14:20:46 19 brother meet you, what do you do then?

14:20:48 20 A. We went to -- we went right to the hotel. We left a stop
14:20:58 21 there and then, we take to the auction place, to the Heritage
14:21:02 22 Place.

14:21:02 23 Q. Heritage Place in Oklahoma City?

14:21:04 24 A. Heritage Place, yeah.

14:21:06 25 Q. When you went to the hotel, did they provide you your own

14:21:10 1 room?

14:21:10 2 A. No. We stayed at the same room, which was a suite. It had

14:21:15 3 two rooms together.

14:21:17 4 Q. So you, Carlos?

14:21:20 5 A. Antonio.

14:21:21 6 Q. And Fernando and Antonio were all together?

14:21:25 7 A. Yes.

14:21:26 8 Q. So you go to the auction place at Heritage Place and what

14:21:31 9 did you do that first day?

14:21:33 10 A. Not much. Just stay, you know, stay around. Not much.

14:21:41 11 Q. Did they explain to you what your role was going to be?

14:21:44 12 A. Excuse me?

14:21:44 13 Q. Did they explain to you what you were going to be doing?

14:21:47 14 A. Not that day. They started explaining me until Saturday.

14:21:54 15 Q. And so, what did they explain to you with regard to buying a

14:21:57 16 horse?

14:21:57 17 A. They explained me -- they showed me a book, a pretty big

14:22:03 18 book with all the horses that they were selling, and they told

14:22:09 19 me, you know, the horse I had to buy, it's almost at the end. So

14:22:14 20 that is going to be tomorrow, which is Sunday. And they tried --

14:22:20 21 they start explaining me, you know, taking me to the place where

14:22:26 22 the auction take place, you know, how was I supposed to buy the

14:22:33 23 horse, you know. They started explaining me, you're going to

14:22:38 24 have to raise your hand, letting them know that you're interested

14:22:44 25 in that horse, and then, someone is going to push, and then, you

14:22:49 1 have to go and push again until it's yours. Whatever reason, you
14:22:58 2 gotta buy it.

14:22:59 3 Q. And when you say push, does that mean raise your hand and
14:23:02 4 bid?

14:23:02 5 A. Yeah. Keep raising my hand until the horse is mine.

14:23:05 6 Q. Now, when you were at the auctions on Friday and Saturday,
14:23:10 7 were Carlos Nayen and Fernando Garcia with you all the time?

14:23:14 8 A. No. They were doing their business. I mean, they were on
14:23:19 9 their own things and I was in different places, and I was taken
14:23:26 10 care of by his brother, which is Antonio Nayen.

14:23:29 11 Q. All right. So, for example, when you went outside to smoke?

14:23:32 12 A. Yeah.

14:23:33 13 Q. Did Antonio go with you?

14:23:34 14 A. Yeah. Antonio. And Carlos and Fernando spent the whole day
14:23:41 15 doing other things.

14:23:42 16 Q. Did Antonio ever leave your side?

14:23:44 17 A. No.

14:23:49 18 Q. Now, at this time are your injuries still visible? Can you
14:23:54 19 still see your wounds and your injuries?

14:23:56 20 A. Me? Right now?

14:23:58 21 Q. No. When you -- I'm sorry.

14:24:00 22 A. Oh, yeah. At that time?

14:24:01 23 Q. Yes.

14:24:01 24 A. Yeah. I was pretty hurt. I had to do some -- I had to do
14:24:12 25 treatments. Take medicines for the inflammations, antibiotics

14:24:19 1 and things like that.

14:24:19 2 Q. And did Fernando Garcia see your injuries?

14:24:22 3 A. Yes.

14:24:23 4 Q. Did he see you take your medications?

14:24:25 5 A. Yes.

14:24:25 6 Q. And did he see you apply the treatments to your hand?

14:24:28 7 A. Yes. I had to take showers with a band -- with a bag in my

14:24:33 8 hand, you know, take those kind of cares.

14:24:38 9 Q. Did Fernando Garcia ever ask you how you got hurt?

14:24:41 10 A. No.

14:24:42 11 Q. And so, you're going Sunday and is that the day that you

14:24:47 12 actually bought the horse?

14:24:48 13 A. Yes.

14:24:48 14 Q. And do you remember the name of the horse?

14:24:50 15 A. Yeah. It was called Blues Ferrari. Yeah, Blues Ferrari.

14:24:56 16 Q. Did you ever know anything about that horse before?

14:24:59 17 A. No.

14:24:59 18 Q. Were you aware that Tremor Enterprises owned that horse?

14:25:02 19 A. No.

14:25:02 20 THE COURT: What was the name of the horse again?

14:25:04 21 THE WITNESS: Blues Ferrari.

14:25:09 22 Q. (BY MR. GARDNER) And tell us -- tell the jury about the

14:25:14 23 bids. How did the bidding go? If you could just describe that

14:25:17 24 physically for the jury.

14:25:18 25 A. They started, you know, like around \$5,000. Is that what

14:25:24 1 you're talking about?

14:25:25 2 Q. Correct. Yes, sir.

14:25:27 3 A. So I went to, I don't know, I remember 7, \$8,000. Then they
14:25:34 4 went to 10. I went to 12. They went to 15. I went to 20. They
14:25:44 5 went like, suddenly, from 20 to 30. I went to 35. It kept going
14:25:52 6 that way. Suddenly, we were between 100,000, 200,000. Then all
14:25:58 7 the way to \$150,000, to \$175,000. When they get to -- I got to
14:26:08 8 around 280 or 290, and someone called 300, and then, I went to
14:26:14 9 310,000, and then, no one kept going.

14:26:22 10 Q. Where was Carlos Nayan and Fernando Garcia while you were
14:26:24 11 raising your hand?

14:26:26 12 A. I don't know, but they weren't there. The only person with
14:26:31 13 me was his brother. They didn't want to be with me.

14:26:35 14 Q. Why do you say that?

14:26:37 15 A. That's what they said. They said they couldn't be with me.
14:26:40 16 They didn't want people to know that they were like involved in
14:26:47 17 that transaction.

14:26:50 18 Q. So after the auction, did you pay for the horse?

14:26:53 19 A. Yeah. I was called to go to the office, and I gave some
14:27:01 20 checks. Two checks to pay for the horse.

14:27:10 21 Q. I want to show you Government's Exhibit 272A. 272B, while
14:27:22 22 I'm up here, can you go through that, tell me what those are?

14:27:26 23 A. These are two checks, one for \$150,000 and the second one
14:27:32 24 for \$160,000, that makes \$310,000 for the cost of the horse.

14:27:39 25 Q. Okay. And just while I'm up here, these other documents,

14:27:43 1 are they also your banking records?

14:27:44 2 A. Yes.

14:27:44 3 Q. Your Honor, I offer Government's Exhibit 272A and 272B.

14:27:53 4 MR. WOMACK: No objection.

14:28:06 5 THE COURT: 272A and B are admitted.

14:28:09 6 Q. (BY MR. GARDNER) This is what we just talked about, correct?

14:28:22 7 Mr. Del Rayo, this check here in your wife's account for

14:28:27 8 \$150,000?

14:28:29 9 A. Uh-huh. Yes.

14:28:30 10 Q. And this next one over here for \$160,000?

14:28:33 11 A. Yes, sir.

14:28:34 12 Q. Why two checks?

14:28:37 13 A. Because I told them that I didn't have the whole amount with

14:28:41 14 me at the moment. So they said no problem. Give us two checks.

14:28:49 15 Tell us when we can cash the next check.

14:28:54 16 Q. So you asked them to hold one until you let them know?

14:28:57 17 A. Yes.

14:28:58 18 Q. I'm showing you Government's Exhibit 359B. I'm sorry, 359A

14:29:03 19 and 359B. Do you recognize those two photos?

14:29:08 20 A. Yes, sir.

14:29:08 21 Q. Okay. Is that you in 359B?

14:29:11 22 A. Yes, sir.

14:29:12 23 Q. And can you identify the individuals in 359A?

14:29:15 24 A. Yes. Fernando Garcia and Antonio Nayen.

14:29:20 25 Q. Your Honor, I offer 359A and 359B for relevance objections.

14:29:36 1 THE COURT: 359A and B are admitted.

14:29:50 2 Q. (BY MR. GARDNER) I'm showing you 359A, Mr. Del Rayo. Where

14:29:53 3 is this? Where are you in this picture?

14:29:55 4 A. That's the office of, I guess, the manager of the place, the

14:30:02 5 auction place.

14:30:02 6 Q. Is this where you went to?

14:30:05 7 A. To give the checks. Yes.

14:30:08 8 Q. And, again, you talked -- when you and I were up there at

14:30:11 9 the witness stand, who was that individual?

14:30:12 10 A. That's Antonio Nayen, Carlos' brother.

14:30:15 11 Q. And that individual?

14:30:16 12 A. That's Fernando Garcia.

14:30:17 13 Q. Okay. Did they -- obviously, did they accompany you to the

14:30:22 14 sales office after the auction?

14:30:24 15 A. They took me there.

14:30:25 16 Q. They took you there?

14:30:26 17 A. Yes.

14:30:26 18 Q. Do you have any indication from either Mr. Nayen or Mr.

14:30:29 19 Garcia that horse would go for \$310,000?

14:30:31 20 A. No. But they told me that I had to buy it at any price.

14:30:37 21 Q. I'm showing you 359B. And is this in the same location,

14:30:46 22 sir?

14:30:46 23 A. Yes, sir.

14:30:47 24 Q. All right. Is that when you're filling out the check?

14:30:51 25 A. Yes.

14:30:52 1 Q. At least from my photo here, seems like your finger's
14:30:56 2 sticking out there. Is that the hand that was injured?
14:30:58 3 A. Yes, sir.
14:30:59 4 Q. After the auction, what happened?
14:31:09 5 A. After the auction, we went back to San Antonio the next day.
14:31:15 6 Q. When you say "we," who?
14:31:18 7 A. We took -- we all together.
14:31:21 8 Q. So yourself?
14:31:22 9 A. Carlos, Fernando and Antonio and me.
14:31:25 10 Q. And so, when you got off the airplane -- let me back up a
14:31:31 11 second. You have a residence in San Antonio?
14:31:33 12 A. I do own a house in San Antonio.
14:31:36 13 Q. So when you got back to San Antonio, was it your thought to
14:31:40 14 go to your home?
14:31:41 15 A. Yes.
14:31:42 16 Q. And when you told -- let me back up.
14:31:46 17 Did you let Carlos Nayen or Fernando Garcia know you
14:31:49 18 were going to the house?
14:31:50 19 A. Yes.
14:31:50 20 Q. And what was their response?
14:31:52 21 A. They wanted to take me and because they know that I had a
14:31:59 22 minivan that I rented, and they wanted to take me to my house to
14:32:04 23 see where I live. And then, they wanted -- they asked me to take
14:32:09 24 them to a place, I guess, Retama Park, a place that looks like a
14:32:18 25 race place, horse place.

14:32:23 1 Q. When they took you to your house, did you get the sense that
14:32:26 2 they were verifying where you live in the United States?
14:32:28 3 A. Yes.
14:32:33 4 Q. So you went to your house and then, you got in your car from
14:32:35 5 your house?
14:32:37 6 A. Yes.
14:32:37 7 Q. And then, you took everyone?
14:32:38 8 A. I took them.
14:32:40 9 Q. To Retama?
14:32:41 10 A. I drove and I took them to this horse place.
14:32:44 11 Q. And when you got to Retama Park, did you meet anyone else?
14:32:49 12 A. Well, there was like five or six people waiting for Carlos,
14:32:59 13 and I just left and that was all.
14:33:02 14 Q. When you met these five or six people waiting for Carlos,
14:33:05 15 how did they treat him?
14:33:07 16 A. Like -- well, like he was their boss.
14:33:12 17 Q. How old is Carlos?
14:33:15 18 A. Middle 20s.
14:33:20 19 Q. So after that, you went home and did you go back to Mexico?
14:33:25 20 A. After I went home -- after I stayed, you know, three or four
14:33:30 21 days in San Antonio, and then, I go back to Veracruz.
14:33:34 22 Q. Were you ever contacted by Carlos again?
14:33:38 23 A. Yes.
14:33:39 24 Q. And when was that?
14:33:40 25 A. He called me back, like, three months later. Like around

14:33:55 1 March, at the end of March, beginning of April.

14:34:00 2 Q. And what did he tell you?

14:34:02 3 A. He told me, in other words, that the things were pretty bad

14:34:08 4 and they needed me to get more money. I asked him how much. He

14:34:16 5 told me that he needed -- that they need -- that they told him

14:34:20 6 that they needed to ask me for 10 million pesos.

14:34:26 7 Q. And, again, based on the exchange rate, about how much U.S.

14:34:29 8 dollars is that?

14:34:30 9 A. About 7, 600 -- between 650, \$700,000.

14:34:40 10 Q. And did you have that money available in your bank account?

14:34:45 11 A. No.

14:34:45 12 Q. So how did you -- first question, did you get that money for

14:34:48 13 them?

14:34:48 14 A. Well, first of all, I told him that I didn't have the money,

14:34:54 15 that I would have to look around to have to get it. I had to

14:35:00 16 look for what to sell to get the money, and he told me that I had

14:35:05 17 to do it fastest I could.

14:35:09 18 Q. Did you feel you had the option of saying no to Carlos

14:35:13 19 Nayen?

14:35:14 20 A. No, because in the other side, I started receiving calls

14:35:19 21 from on my radio with death threats about if I didn't get that

14:35:27 22 money, I will get killed or my family.

14:35:30 23 Q. Did you report these to Carlos?

14:35:33 24 A. Yeah. I told Carlos that that was happening, and he told

14:35:36 25 me, don't worry, nothing's going to happen to you, just get the

14:35:39 1 money.

14:35:41 2 Q. And so, this 10 million pesos or approximately \$600,000, did

14:35:47 3 you eventually sell property to obtain those funds?

14:35:49 4 A. Yeah. I had to sell some properties to get the money. And

14:35:52 5 when I had the money, I told Carlos I already had it. He told me

14:36:00 6 that he wanted it in cash. I had it in cash in about a week.

14:36:07 7 And when I told him that it was ready, he changed the whole thing

14:36:12 8 and told me, we don't need the cash anymore. We need to put it

14:36:17 9 back in the bank because you're going to have to make wires to

14:36:20 10 where we're going to tell you to.

14:36:22 11 Q. And where did they tell you to send it?

14:36:24 12 A. They gave me a list of accounts in the states, the name of

14:36:32 13 the company, Southwest Stallion, and that's where I had to

14:36:38 14 deposit all that money. But it took me like a week, week and a

14:36:43 15 half to put the money back in the bank.

14:36:45 16 Q. I'm showing you page 2 of Government's Exhibit 272A. This

14:36:50 17 is the cashier's check from Chase with your name to Southwest

14:36:55 18 Stallion Station for \$250,000?

14:36:58 19 A. Yes.

14:36:58 20 Q. Dated July 28, 2011. And here's a check from Southwest

14:37:03 21 Stallion Station, dated the same day, for \$300,000?

14:37:07 22 A. Yes.

14:37:08 23 Q. Were you ever told what those payments were for?

14:37:13 24 A. I was told those payments were needed for the company which

14:37:21 25 uses to take care of the horses.

14:37:26 1 Q. Do you know anything about Southwest Stallion Station?

14:37:28 2 A. Excuse me?

14:37:29 3 Q. Did you know anything about Southwest Stallion Station?

14:37:31 4 A. No. Just -- I just knew this guy which I met when I paid

14:37:39 5 for the horse telegram.

14:37:43 6 Q. You met him when --

14:37:45 7 THE COURT: He keeps saying Southwest.

14:37:47 8 MR. GARDNER: Stallion Station, your Honor.

14:37:53 9 Q. (BY MR. GARDNER) So you've never been to that particular

14:37:56 10 facility in the U.S.?

14:37:57 11 A. Never.

14:37:59 12 Q. Now, for the \$310,000 that you paid for Blues Ferrari or the

14:38:05 13 \$550,000 you paid for horse expenses, did the Zetas ever

14:38:10 14 reimburse you for that?

14:38:11 15 A. No. Not at all.

14:38:14 16 Q. Now I'm going to show you what's been marked as Government's

14:38:17 17 Exhibit 272B. Here's a check for \$50,000 to Southwest Stallion

14:38:24 18 Station on August 8, 2011, check No. 1009, August 12, check 10010

14:38:30 19 for \$50,000 to the same, and August 15, 2011, check No. 1011 for

14:38:39 20 \$50,000 to Southwest Stallion Station.

14:38:40 21 Could you explain to the jury what these are for?

14:38:42 22 A. Yeah. Those are also part of the money from the 10 million

14:38:48 23 pesos that they asked me. Had a lot of trouble transferring the

14:38:51 24 money from Mexico to the states for obvious reason, you know,

14:38:56 25 that was a lot of money. And it took some time to get the wire

14:39:00 1 through because the first wires were sent back. The bank in
14:39:06 2 Mexico, they didn't accept it.

14:39:11 3 So there was money left to pay to this company. So I
14:39:16 4 had to come over myself and give him those checks to this guy
14:39:23 5 Tyler Graham. And I told him, you can cash one and I'll let you
14:39:26 6 know when can you cash the next one and, you know, keep that way.

14:39:30 7 Q. And did you actually talk to Tyler Graham over the phone?

14:39:33 8 A. Yes. I did talk to -- I did talk to him on the phone, and I
14:39:37 9 did see him in person, also, because I give him the checks
14:39:41 10 personally.

14:39:43 11 Q. I want to turn your attention to the winter of 2011. I'm
14:39:51 12 sorry. Yes. 2011. Did you attend a wedding of Carlos Nayen?

14:39:56 13 A. On winter 2011. December 3rd, 2011, yes, I did.

14:40:01 14 Q. Can you tell the jury how that came about?

14:40:04 15 A. Yeah. I was asked for -- I was asked for Carlos to be
14:40:12 16 there. I just went. I just went. I got there between 9:30 at
14:40:18 17 night -- about 9:30, 10:00 at night, and I came back two hours
14:40:23 18 later. I spent like two hours there.

14:40:27 19 Q. And did you see an individual there that you knew by the
14:40:31 20 name of "Pancho" Colorado?

14:40:34 21 A. Well, I saw him. I didn't know him, you know. I knew who
14:40:41 22 was him, you know, but I was present -- I was introduced to him
14:40:45 23 by Carlos and by Jose Guillermo Herrera-Mendoza.

14:40:49 24 Q. And it's the same Guillermo Herrera who came with you?

14:40:52 25 A. And Carlos.

14:40:53 1 Q. And Carlos to your house?

14:40:54 2 A. Yes.

14:40:57 3 Q. Showing you Government's Exhibit 361. Do you recognize

14:41:02 4 that, sir?

14:41:03 5 A. Yes.

14:41:04 6 Q. Did you obtain that for the government at our request?

14:41:07 7 A. Yes.

14:41:08 8 Q. All right. And were you present when this document was

14:41:10 9 filled out?

14:41:12 10 A. Yes.

14:41:12 11 Q. And what is that document?

14:41:14 12 A. It's a marriage certificate.

14:41:16 13 Q. Okay. Of Carlos Nayen?

14:41:17 14 A. Carlos Nayen marriage certificate.

14:41:20 15 Q. Your Honor, we offer Government's Exhibit 361.

14:41:34 16 THE COURT: Hearing no objection, 361 is admitted.

14:41:39 17 Q. (BY MR. GARDNER) Now, Mr. Del Rayo, it's in Spanish, but

14:41:53 18 could you explain to the jury in English what testigos de los

14:41:58 19 contrayentes means?

14:41:59 20 A. Witnesses.

14:42:00 21 Q. Witnesses?

14:42:01 22 A. Yes.

14:42:01 23 Q. And Francisco Antonio Colorado-Cessa was a witness?

14:42:06 24 A. Yes.

14:42:06 25 Q. Now, in the Mexican culture, what is the significance of

14:42:09 1 having witnesses at one's wedding?

14:42:13 2 A. It's like grandfather.

14:42:14 3 Q. Like a godfather?

14:42:15 4 A. Yeah.

14:42:16 5 Q. Is there any significance to the order such that the person

14:42:20 6 on top is more important than anyone else?

14:42:22 7 A. Not really. The order doesn't.

14:42:26 8 Q. And below here, the actual signatures of the witnesses,

14:42:29 9 correct?

14:42:30 10 A. Yes.

14:42:33 11 Q. And where was "Pancho" Colorado sitting at that wedding in

14:42:40 12 relation to the head table?

14:42:42 13 A. You know, I didn't see him seated at all. He was kind of

14:42:46 14 taking care of the whole thing. He was like the one in charge of

14:42:50 15 the whole wedding. That was my -- that's what I could -- that I

14:42:55 16 could see.

14:42:57 17 Q. Now, following your arrest and you coming into the United

14:43:02 18 States, have you been contacted by members of Carlos Nayen's

14:43:06 19 family?

14:43:06 20 A. Before. Before I came here, yeah.

14:43:09 21 Q. And what did they ask you when they contacted you?

14:43:12 22 A. First of all, they asked me for the keys of the house in San

14:43:17 23 Antonio, which I gave it to them. And then, I was asked for more

14:43:23 24 money to pay expenses for his lawyer.

14:43:27 25 Q. And do you know why they asked you for the keys to your

14:43:30 1 house?

14:43:30 2 A. Yeah. They told me that they needed the house so his wife

14:43:35 3 and his son could go and live there.

14:43:39 4 Q. During the pendency of his criminal case, correct?

14:43:41 5 A. Excuse me?

14:43:42 6 Q. During the pendency or during his criminal matter.

14:43:45 7 A. They didn't tell me how long, but they told me they needed

14:43:49 8 the house for that.

14:43:50 9 Q. And based on the government's representation, we asked you

14:43:55 10 not to contact her?

14:43:56 11 A. Yes, sir.

14:44:00 12 Q. Did you feel you had the ability to ever say no to Carlos

14:44:03 13 Nayen or any of the Zetas during this whole ordeal?

14:44:08 14 A. No.

14:44:09 15 Q. What do you think would happen if you had said no?

14:44:12 16 A. I get punished.

14:44:21 17 Q. Your Honor, I'll pass the witness.

14:44:30 18 MS. WILLIAMS: I don't have any questions.

14:44:35 19 CROSS-EXAMINATION

14:44:39 20 BY MR. SANCHEZ:

14:44:39 21 Q. Mr. Del Rayo.

14:45:02 22 A. Yes.

14:45:03 23 Q. My name's Andres Sanchez. We haven't met, have we?

14:45:06 24 A. No.

14:45:09 25 Q. I want to get just to make sure I understand the amounts of

14:45:17 1 money and the times when you were paying these amounts of moneys
14:45:23 2 so I have that clear.

14:45:24 3 A. Uh-huh. Yes.

14:45:25 4 Q. And I guess, before, you said you were kidnapped sometime in
14:45:31 5 December of 2010?

14:45:33 6 A. The 10 of December.

14:45:35 7 Q. Okay. So December 10, 2010?

14:45:38 8 A. Yes.

14:45:39 9 Q. And lasted nine days?

14:45:41 10 A. Yeah. Until the 18.

14:45:43 11 Q. Until the 18th. And then, on the 18th, you're released and
14:45:47 12 then, sometime a week or so later, Carlos Nayen comes to visit
14:45:51 13 you?

14:45:51 14 A. Yes. Not to visit me, just he came with Jose Guillermo
14:45:58 15 Herrera to talk to me about what he wanted.

14:46:03 16 Q. Right. And maybe there's some issue in the translation. I
14:46:06 17 don't mean visit you as in how are you doing, nice to meet you,
14:46:09 18 but he came to your house?

14:46:10 19 A. Yes.

14:46:11 20 Q. And your house is -- you said you're from Veracruz,
14:46:16 21 Veracruz. The house you were living in when you were living in
14:46:18 22 Mexico, is that in Veracruz, Veracruz?

14:46:20 23 A. Yes, sir.

14:46:20 24 Q. And Veracruz is a city within the state of Veracruz?

14:46:25 25 A. Well, it's a city within the state of Veracruz, but there

14:46:29 1 are three cities together. Veracruz, Boca del Rio and Alvarado.

14:46:36 2 We call it Veracruz but, you know, there are differences, though.

14:46:40 3 Mine is in Alvarado.

14:46:42 4 Q. Okay. Do you know where Nayen lives?

14:46:44 5 A. Where who?

14:46:45 6 Q. Carlos Nayen? Do you know where he lives?

14:46:47 7 A. No.

14:46:48 8 Q. The Boca del Rio is one of those three cities?

14:46:53 9 A. Yes.

14:46:54 10 Q. That you consider Veracruz?

14:46:56 11 A. Yes.

14:46:57 12 Q. How far away is Tuxpan?

14:47:00 13 A. How far away is Tuxpan from that area, I don't know, three,

14:47:06 14 three-and-a-half hours.

14:47:08 15 Q. What about Pozo Rica?

14:47:11 16 A. Four -- yeah, between same time. About the same time.

14:47:16 17 Q. Okay. Sorry. I got a little off track.

14:47:19 18 But so, in January of 2011, in that time period, Carlos

14:47:25 19 Nayen came to your home; is that correct?

14:47:26 20 A. No. It was in January.

14:47:29 21 Q. It was still in December?

14:47:31 22 A. Yes.

14:47:31 23 Q. December, he comes to your home and tells you that he would

14:47:35 24 like for you to attend an auction where you're going to be paying

14:47:41 25 some money for a horse.

14:47:43 1 A. No. That I had to buy a horse as a payback for my release.

14:47:49 2 Q. Okay. And I guess what's important to me is I want to try

14:47:52 3 to get the details right. Did he tell you, you're going to be

14:47:55 4 having to write a check for a horse at that particular time?

14:48:00 5 A. No. He just told me that I had to buy the horse.

14:48:06 6 Q. What I'm trying to figure out is, how did you know to show

14:48:09 7 up with your checkbook from the San Antonio account that you

14:48:12 8 have?

14:48:14 9 A. Can you say that again?

14:48:15 10 Q. Sure. When you got to the auction in January, you showed up

14:48:22 11 and you were ready to write the check. You had an account or a

14:48:25 12 checkbook from Chase?

14:48:26 13 A. Uh-huh. Yes.

14:48:29 14 Q. Right? And at least \$150,000 in that account as a portion

14:48:34 15 of the \$310,000 to pay for it, right?

14:48:38 16 A. Yes.

14:48:38 17 Q. So that \$150,000 in that account, how did you know to show

14:48:42 18 up with that particular checkbook and pay in that particular

14:48:45 19 manner with that checkbook?

14:48:47 20 A. Well, I didn't know how much money to take. I just had that

14:48:51 21 money at that time, and that's what I paid that time.

14:48:56 22 Q. So you had \$150,000 in that particular account, and you

14:49:02 23 wrote out a check for \$150,000, then another 170?

14:49:05 24 A. 160.

14:49:06 25 Q. 160?

14:49:07 1 A. Yes.

14:49:07 2 Q. Okay. So there was already \$150,000 in your U.S. Chase

14:49:11 3 account. Is that what you're telling us?

14:49:13 4 A. Yes. They couldn't get that check paid right away.

14:49:21 5 Q. You told them, go ahead and cash that check but wait for the

14:49:24 6 160?

14:49:24 7 A. Yes.

14:49:25 8 Q. And I see a date -- I don't know exactly what date it is.

14:49:36 9 Looks like January 26. Is that what date that was on?

14:49:40 10 A. January -- yeah, January 20-something. Can I see that 161?

14:49:49 11 It's about the same.

14:49:51 12 Q. In one? Wait, what do you want to see?

14:49:54 13 A. January 20-something. Yeah.

14:49:56 14 Q. Okay. All right. So what I'm trying to figure out is the

14:50:00 15 remaining 160, how did you get that money into that particular

14:50:05 16 account?

14:50:05 17 A. I had to send money from Mexico.

14:50:10 18 Q. And I want the details of that, if you could, please.

14:50:13 19 A. To go back to Mexico to Veracruz, I had to get some money on

14:50:18 20 my own, you know, and send it back -- and send it to my account

14:50:22 21 in Chase.

14:50:23 22 Q. Okay. And so, you gave instruction -- what was the -- money

14:50:27 23 in pesos?

14:50:28 24 A. I went myself. I went back to Veracruz, you know, I get the

14:50:33 25 money, and then, I sent it and I make a wire to that account to

14:50:39 1 have the other part of the money.

14:50:43 2 Q. Did you sell property to get that 160?

14:50:45 3 A. Well, I had some money over there from other things.

14:50:50 4 Q. Was it in pesos?

14:50:51 5 A. Yes.

14:50:52 6 Q. So it was in pesos?

14:50:53 7 A. All the money in Veracruz was in pesos.

14:50:57 8 Q. All the money in your account in Veracruz was in pesos?

14:50:59 9 A. Yeah. There's no dollars -- there's no dollars accounts in

14:51:03 10 Veracruz.

14:51:04 11 Q. So --

14:51:05 12 A. As far as I know.

14:51:06 13 Q. So you converted the money from pesos to wire it to dollars

14:51:10 14 to that account?

14:51:10 15 A. The bank does it itself, you know. I just say, I want to

14:51:14 16 send a million pesos and they take, you know, the rate, the

14:51:20 17 exchange rate at that day, and they put it in whatever --

14:51:26 18 wherever account it's sent.

14:51:29 19 Q. Okay. So in January -- do you know how long it took before

14:51:33 20 you had the money to -- for this check?

14:51:37 21 A. It took me more than that date. I can't recall.

14:51:42 22 Q. I won't hold you to it. Was it a week? Was it a month? Do

14:51:45 23 you know how long roughly?

14:51:46 24 A. Less than a month.

14:51:47 25 Q. So by February, you'd already spent \$310,000?

14:51:52 1 A. Yes.

14:51:54 2 Q. And then, you talked about in April -- so in April is when

14:52:21 3 this occurred?

14:52:22 4 A. No. That occurred until June -- July.

14:52:27 5 Q. All right. I'm sorry. In April is when Nayen approached

14:52:30 6 you again?

14:52:31 7 A. Uh-huh. Yes.

14:52:33 8 Q. And asked you to collect the money that ultimately turned

14:52:36 9 out to be these checks?

14:52:37 10 A. Uh-huh. Yes.

14:52:39 11 Q. And you collected in cash but then, had to redeposit it?

14:52:44 12 A. I had it in bags but they -- but he wanted it in cash.

14:52:51 13 Q. In pesos?

14:52:52 14 A. In pesos. Yes.

14:52:54 15 Q. And then, you deposited it back into the bank?

14:52:57 16 A. I had to deposit it back in cash to my accounts and then,

14:53:03 17 make the wires.

14:53:05 18 Q. All right. So what I'm trying to figure out was that cash

14:53:08 19 that you got, was that from selling land or?

14:53:11 20 A. Yeah. I did sell like two or three properties to have the

14:53:16 21 money.

14:53:17 22 Q. And people brought you cash for those properties?

14:53:19 23 A. No. Not all the money was cash. Some of it, yeah.

14:53:27 24 Q. Okay. So then, when they're saying -- when you're being

14:53:31 25 told by Nayen or -- I think it was Nayen, correct?

14:53:34 1 A. Yes.

14:53:35 2 Q. By the way, everything, all the contacts that you had about

14:53:38 3 these checks and all the money was through Nayen?

14:53:40 4 A. Yes.

14:53:41 5 Q. Nayen was telling you what to do?

14:53:43 6 A. Yes, sir.

14:53:44 7 Q. When Nayen tells you, never mind, we want this wired or

14:53:51 8 ultimately in a check, how do you get that cash to the U.S.?

14:53:56 9 A. No. I didn't get any cash. I had to put it back everything

14:54:00 10 in my accounts. I got several accounts in Veracruz from

14:54:07 11 companies that I have. I have to put various deposits -- you

14:54:18 12 know, it took me like two weeks to get all the money inside the

14:54:24 13 accounts. When I had the money inside the accounts, I collect --

14:54:29 14 I collect all the money in the accounts, and I put in one account

14:54:33 15 so I can transfer the money from one account.

14:54:35 16 Q. Gotcha. So you have several accounts. You started putting

14:54:40 17 in money in those several accounts, and those several accounts

14:54:43 18 sent money to Chase to get the cashier's check?

14:54:46 19 A. Yes.

14:54:46 20 Q. Okay. And that was in June?

14:54:48 21 A. But before that -- but before that, I tried to do the wires

14:54:51 22 directly to that account of the Southwest Stallion company, and

14:54:57 23 that's when I had trouble because they sent it back to me. They

14:55:02 24 didn't went through for -- how do you call it, for security

14:55:10 25 reasons. That's what they explained to me in Mexico.

14:55:17 1 Q. By the way, how many accounts do you have in Veracruz? I
14:55:19 2 know a Santander account. What other accounts do you have?
14:55:25 3 A. All of my accounts are Santander. I have a Banco Norte
14:55:30 4 account. I had a BBVA account.
14:55:37 5 Q. What about Banamex?
14:55:42 6 A. No.
14:55:43 7 Q. Never?
14:55:44 8 A. Later, I had a Banamex.
14:55:46 9 Q. What year did you open that account?
14:55:48 10 A. In 2012.
14:55:57 11 Q. So now we're up to -- with the 310 plus this 550, you're at
14:56:07 12 a total of 860,000 that you've paid?
14:56:12 13 A. Yeah, plus the \$150,000 in checks that I gave to Tyler
14:56:18 14 Graham.
14:56:18 15 Q. All right. So we'll jump right to that. Those 150,000 in
14:56:23 16 checks, that came in August?
14:56:29 17 A. Yes.
14:56:30 18 Q. So the same thing. This time, you know you don't need it in
14:56:34 19 cash. How did you get the money to that particular account, do
14:56:37 20 you remember?
14:56:37 21 A. Yeah. I get deposit in Mexico so I could transfer that
14:56:45 22 money to this accounts in the United States. I get the money.
14:56:49 23 Q. And, again, this money was from?
14:56:55 24 A. Sales.
14:56:56 25 Q. Sales.

14:56:56 1 A. Yes.

14:56:58 2 Q. Of property?

14:56:58 3 A. Property sales.

14:56:59 4 Q. And the Zetas never paid you back and Carlos Nayen never

14:57:04 5 paid you back?

14:57:04 6 A. Excuse me?

14:57:05 7 Q. The Zetas never paid you back and Carlos Nayen never paid

14:57:08 8 you back?

14:57:08 9 A. Never.

14:57:09 10 Q. We talked a second about this. That top name is Francisco

14:57:44 11 Antonio Colorado-Cessa. That's who you know to be Francisco

14:57:52 12 Antonio Colorado-Cessa?

14:57:53 13 A. Excuse me?

14:57:54 14 Q. Is that who you know to be Francisco --

14:57:56 15 A. Yes. Yes, sir.

14:57:58 16 Q. You said that the witness would be the godfather?

14:58:04 17 A. Well, that's -- that's what I heard Carlos call him.

14:58:11 18 Q. But you're not saying that this particular document

14:58:13 19 indicates that he's a godfather?

14:58:15 20 A. No.

14:58:16 21 Q. Okay. Because here, the third and fourth witnesses are 21

14:58:20 22 and 22 years old, right?

14:58:22 23 A. Yeah. But I don't know.

14:58:24 24 Q. They're not godparents of Carlos, are they?

14:58:27 25 A. I don't know.

14:58:31 1 Q. One thing we missed out on about the wedding. Do you know
14:58:40 2 who Anali Faces is? I may be mispronouncing the name.
14:58:45 3 A. Yes. It's his wife.
14:58:46 4 Q. Whose wife?
14:58:48 5 A. Carlos Nayen's wife.
14:58:50 6 Q. Carlos Nayen's wife and that's the wedding you went to was
14:58:56 7 for Anali and Carlos?
14:58:58 8 A. Yes.
14:59:38 9 Q. Do you recognize that photo?
14:59:39 10 A. Yes. Well, that's his wedding.
14:59:43 11 Q. That's his wedding?
14:59:44 12 A. Their wedding.
14:59:44 13 Q. And that's Ana?
14:59:47 14 A. I believe so.
14:59:49 15 Q. And that's Carlos?
14:59:51 16 A. Yeah. That's Carlos.
14:59:55 17 Q. We offer Colorado 3, your Honor.
14:59:58 18 MR. GARDNER: No objection, your Honor.
15:00:02 19 THE COURT: Colorado 3 is received.
15:00:05 20 Q. (BY MR. SANCHEZ) So when you talked about getting invited to
15:00:21 21 this wedding, you mentioned on direct that Carlos Nayen asked you
15:00:30 22 directly to go to the wedding?
15:00:31 23 A. Yeah. He called me and told me that he wanted me -- he
15:00:35 24 wanted me to be there.
15:00:36 25 Q. Have you ever told agents, or anyone else, that Ana's father

15:00:43 1 asked you to go to the wedding?

15:00:45 2 A. No. That's another -- I told them, yeah. I told them also

15:00:49 3 that, that they called me and invited me to.

15:00:53 4 Q. Ana's father called you?

15:00:55 5 A. Yeah, because I know Ana's father from a long time ago.

15:00:58 6 Q. Okay. And were you in any way afraid of telling Ana's

15:01:03 7 father, no, you didn't want to go to the wedding?

15:01:05 8 A. No. He doesn't know or he didn't know anything about my

15:01:13 9 situation.

15:01:17 10 Q. And you have no reason to believe that he knew about your

15:01:22 11 situation or knew anything about Carlos and the son who his

15:01:28 12 daughter -- or the man his daughter was marrying, right?

15:01:30 13 A. I had no idea.

15:01:36 14 Q. This wedding, where was the wedding?

15:01:39 15 A. That was in Jalapa, the capital of the state of Veracruz.

15:01:46 16 Q. And was it a open event or was it by invitation only?

15:01:52 17 A. Well, it was an invitation.

15:01:56 18 Q. Was it something where there were armed men walking around

15:02:00 19 with the AK-47s that they had where they held you?

15:02:04 20 A. Not that I noticed.

15:02:06 21 Q. Were there a lot of people at this wedding?

15:02:09 22 A. Yes.

15:02:09 23 Q. Were there any other people, well-known, respected people

15:02:14 24 from Veracruz at the wedding?

15:02:16 25 A. Not that I noticed.

15:02:18 1 Q. Not that you noticed?

15:02:19 2 A. No.

15:02:20 3 Q. Just you and Francisco Colorado, nobody else from the

15:02:23 4 community of Veracruz?

15:02:24 5 A. Well, it was Guillermo Herrera, too. He was there.

15:02:28 6 Q. And those are the only three people at the wedding that

15:02:30 7 were --

15:02:30 8 A. I saw a lot of people, but I cannot tell you they're, you

15:02:34 9 know, highly recognized in, you know, in Veracruz society or not.

15:02:39 10 Q. Did you recognize them?

15:02:41 11 A. Not many. Probably a couple.

15:02:44 12 Q. How many people total were at this wedding?

15:02:46 13 A. A lot. Like, I don't know, tell between 500, 700 people.

15:03:06 14 Q. Did you ever receive a 1 million peso payment from Miguel

15:03:57 15 Nayen -- I'm sorry, from Carlos Nayen to your Banamex account?

15:04:02 16 A. I received 2 million pesos.

15:04:05 17 Q. Two-million pesos?

15:04:06 18 A. Yes.

15:04:07 19 Q. From Nayen?

15:04:08 20 A. Yes.

15:04:08 21 Q. When was that?

15:04:08 22 A. That was 2012.

15:04:10 23 Q. Do you know what month?

15:04:12 24 A. Probably about February or March.

15:04:24 25 Q. But that wasn't anything to do with this particular -- the

15:04:27 1 payments we discussed?

15:04:28 2 A. No.

15:04:35 3 Q. What was it for?

15:04:36 4 A. He asked me again for money. I told him that I didn't have
15:04:41 5 the money. He told me or asked me to look for it because, I
15:04:50 6 don't know, three or four weeks before I told him, you know,
15:04:52 7 there's no way I can get any money flat. He got to the point and
15:04:59 8 said, okay, I'm going to lend it to you, but you're going to owe
15:05:02 9 it to me. So that's why he sent money.

15:05:06 10 Q. He asked you for money but, in the end, ended up giving you
15:05:09 11 money?

15:05:10 12 A. He asked me for money. When he found out that I didn't have
15:05:16 13 the money, that I had no way to get the money, he told me, I'm
15:05:23 14 going to lend it to you and you'll owe it to me.

15:05:33 15 Q. I'll pass the witness.

15:05:43 16 THE COURT: Members of the jury, I'll give you your
15:05:45 17 afternoon break. Time to use the facilities, stretch. Be ready
15:05:50 18 to come back in about 15 minutes.

15:06:25 19 (Jury not present.)

15:06:29 20 THE COURT: Fifteen-minute recess.

15:06:31 21 (Recess.)

15:22:33 22 THE COURT: I'll have counsel up here.

15:22:52 23 (At the bench, on the record.)

15:23:00 24 THE COURT: When you asked me if we were going to go on
15:23:02 25 Friday, I forgot, we have somebody that needs medical attention

15:23:08 1 on Friday. So we will not go on Friday.

15:23:13 2 MR. ESPER: Judge, in that vein -- thank you very much.

15:23:15 3 In that vein, I took the liberty of making a flight at 7:15. I

15:23:22 4 know we've been working till 6:00. Do you think maybe on

15:23:24 5 Thursday, maybe we could stop at 5:30?

15:23:27 6 THE COURT: For you? If you would stop cross-examining

15:23:35 7 when you shouldn't be up there. As long as you'll let me play

15:23:38 8 with your windshield --

15:23:39 9 MR. ESPER: I tell you what, you can do the latter, but

15:23:41 10 the former, I think I --

15:23:43 11 THE COURT: Remind me Thursday.

15:23:45 12 MR. ESPER: I will.

15:23:46 13 MR. GARDNER: Your Honor, I'm sorry. Just one other

15:23:49 14 thing. We made a number of calls to Ernest Gonzalez, at 1:28,

15:23:53 15 at 1:30. Can I release this witness for today, have him subject

15:23:57 16 to recall? And once we get the information, we can provide it.

15:24:00 17 THE COURT: Sure. Just as long as he's available.

15:24:06 18 (Jury present.)

15:24:36 19 THE COURT: Let's have our witness. You understand,

15:25:23 20 sir, you're still under oath?

15:25:24 21 THE WITNESS: Yes.

15:25:25 22 THE COURT: You may proceed.

15:25:26 23 CROSS-EXAMINATION

15:25:27 24 BY MR. WOMACK:

15:25:27 25 Q. Thank you, sir.

15:25:28 1 Good afternoon, Mr. Del Rayo.

15:25:29 2 A. Good afternoon.

15:25:30 3 Q. I'm Guy Womack. I'm from Houston. I represent Fernando

15:25:35 4 Garcia-Solis. Fernando, would you stand up? You know Fernando?

15:25:40 5 A. Yes.

15:25:40 6 Q. Okay. Thank you. You may have a seat.

15:25:42 7 And first time you met him or when you met him was at

15:25:46 8 this auto auction that you've told us about.

15:25:49 9 A. I met him at the Oklahoma City Airport.

15:25:53 10 Q. Right. And that was at a horse sale?

15:25:56 11 A. Yes.

15:25:57 12 Q. Okay. And when you met Fernando Garcia, he told you that

15:26:02 13 what he does is he trains horses and, also, he helps people

15:26:06 14 identify horses to buy when they're fast. Remember that?

15:26:10 15 A. No. He didn't tell me that. He didn't tell me much about

15:26:14 16 what he does.

15:26:16 17 Q. Don't you recall that he gave you some ideas on things to

15:26:20 18 look for when you look at horses?

15:26:21 19 A. No.

15:26:21 20 Q. Do you ever recall that he told you you should always have

15:26:24 21 the horse X-rayed?

15:26:25 22 A. Excuse me?

15:26:26 23 Q. Do you recall him telling you that you should always have a

15:26:29 24 horse X-rayed? Do you recall that?

15:26:33 25 A. No. I can't recall that.

15:26:35 1 Q. You don't remember that conversation?

15:26:37 2 A. No.

15:26:37 3 Q. At Oklahoma City?

15:26:39 4 A. To what?

15:26:40 5 Q. You don't remember that conversation?

15:26:41 6 A. No.

15:26:41 7 Q. In Oklahoma City?

15:26:42 8 A. No.

15:26:42 9 Q. Okay. You never told Fernando Garcia about being kidnapped.

15:26:51 10 A. No.

15:26:51 11 Q. Or about being threatened by this Nayen character?

15:26:54 12 A. No.

15:26:59 13 Q. During the day of the auction, you told us that there were

15:27:03 14 times that Fernando was gone. Remember that?

15:27:07 15 A. I don't understand.

15:27:08 16 Q. During the day of the auction, there are times that you were

15:27:11 17 there with these other people and Fernando Garcia was gone?

15:27:14 18 A. Yeah.

15:27:15 19 Q. Working at the auction or looking at horses?

15:27:17 20 A. Yes.

15:27:17 21 Q. Okay. Now, you told us that you and Fernando and Nayen and

15:27:32 22 Nayen's brother all stayed in a suite, a large hotel room with

15:27:36 23 different bedrooms?

15:27:37 24 A. Yes. Different -- yeah, different beds, not bedrooms.

15:27:45 25 Q. Okay. And it had beds for everybody?

15:27:51 1 A. No. It has like, you know, like a lovey?

15:27:55 2 Q. A couch that extends out into a bed?

15:27:57 3 A. Yeah. That's where Fernando stayed at the front. At the

15:28:01 4 end, there were two beds. In one bed stayed Carlos and his

15:28:06 5 brother. On the other bed was for me.

15:28:07 6 Q. Okay. Now, there was never a time at the sale where you

15:28:16 7 were alone with Fernando Garcia where you could tell him about

15:28:20 8 what had happened, was there?

15:28:22 9 A. Probably we spent three days, you know, together.

15:28:26 10 Q. Okay.

15:28:27 11 A. But I never told him or he never asked me what happened to

15:28:31 12 me.

15:28:31 13 Q. You never bother -- you didn't tell anyone what Nayen had

15:28:34 14 been doing to you?

15:28:35 15 A. No.

15:28:37 16 Q. Fernando Garcia never told you to buy a horse, did he?

15:28:56 17 A. No.

15:28:56 18 Q. Fernando Garcia, never told you to buy a house. He never

15:29:00 19 told you that you should buy Blues Ferrari? He never recommended

15:29:07 20 that, did he?

15:29:07 21 A. No. He never told me to buy Blues Ferrari, but he showed me

15:29:13 22 the way to be in the, you know, in the auction.

15:29:16 23 Q. Right.

15:29:17 24 A. And how to, you know, work it out to get the horse.

15:29:25 25 Q. But it was only Nayen that was telling you, you've got to

15:29:28 1 buy a particular horse and you've got to keep paying till I tell
15:29:31 2 you to stop?

15:29:32 3 A. Yeah.

15:29:34 4 Q. And Fernando was not a part of that at all. He never gave
15:29:37 5 you any instructions like that.

15:29:38 6 A. No. He only showed me, you know, you gotta do there, this
15:29:41 7 is going to happen, you gotta do this. This might happen, but
15:29:46 8 you gotta do this, and be careful with this or be careful with
15:29:49 9 that.

15:29:49 10 Q. Okay.

15:29:50 11 A. Things like that.

15:29:50 12 Q. And, again, I was asking you earlier about him, Fernando
15:29:53 13 giving you advice on how you buy horses. He did have a
15:29:56 14 conversation with you where he said, this is how you auction
15:29:59 15 horses. You'll raise your hand or you'll signal a bid if you
15:30:02 16 want to make one. He was telling you that kind of stuff?

15:30:04 17 A. Yes.

15:30:05 18 Q. But he never told you how to buy a particular horse. He
15:30:09 19 never said anything like that, did he?

15:30:10 20 A. They both told me that at any cost, I had to get the horse.

15:30:15 21 Q. Okay. And it was very obvious to you that the only
15:30:21 22 instructions you were getting about you had to do something, that
15:30:24 23 was coming from Carlos Nayen, right?

15:30:27 24 A. That was the first instruction, yeah, since I met Carlos
15:30:30 25 Nayen.

15:30:30 1 Q. Yeah. And as you told us just a little bit ago on the
15:30:43 2 cross-examination by Mr. Sanchez, the only person that knew about
15:30:47 3 your situation and what you were having to do was Carlos Nayen?

15:30:52 4 A. Well.

15:30:53 5 Q. As far as you know.

15:30:54 6 A. That's what I know.

15:30:55 7 Q. Thank you. No further questions.

15:31:00 8 THE COURT: Mr. Esper.

15:31:02 9 MR. ESPER: No cross, your Honor.

15:31:03 10 THE COURT: Mr. Mayr?

15:31:03 11 MR. MAYR: No questions either, your Honor.

15:31:05 12 THE COURT: Any redirect?

15:31:05 13 MR. GARDNER: Yes, your Honor.

15:31:07 14 RE-DIRECT EXAMINATION

15:31:07 15 BY MR. GARDNER:

15:31:09 16 Q. So was Fernando Garcia with Carlos Nayen when you were told
15:31:13 17 to buy Blues Ferrari at any cost?

15:31:15 18 A. Yes.

15:31:17 19 Q. And was Fernando Garcia next to you when you were raising
15:31:21 20 your hand for the bid on Blues Ferrari?

15:31:24 21 A. No. He wasn't with me.

15:31:25 22 Q. Was he with Carlos Nayen?

15:31:27 23 A. Yes.

15:31:28 24 Q. Why didn't you tell Garcia you were kidnapped?

15:31:40 25 A. I believed that that was something that I had to keep for

15:31:46 1 myself. I mean, something that I couldn't be, you know, telling
15:31:49 2 anyone. Even if they ask me, those people asked me what happened
15:31:56 3 to me, I had to say it was an accident, that I went to an
15:32:01 4 accident.

15:32:01 5 Q. And, again, I'm showing you 324B. Ms. Sims, would you lower
15:32:08 6 the lights for me, please?

15:32:27 7 Your Honor, may I do the old school route, publish
15:32:30 8 these directly to the jury, since the glare's on the screen for
15:32:34 9 them to look at?

15:32:36 10 THE COURT: No. I'm not going to take the time for
15:32:38 11 that. They'll have the pictures.

15:32:43 12 Q. (BY MR. GARDNER) 324B, Mr. Del Rayo, were these injuries
15:32:47 13 visible during the time that you were bidding on Blues Ferrari?

15:32:51 14 A. Yes.

15:32:58 15 Q. And 324 -- or, sorry, 359B, was your hand injury, the
15:33:05 16 surgery from your hand still visible when you were filling out
15:33:07 17 that check?

15:33:07 18 A. Yes, sir.

15:33:10 19 Q. When Mr. Sanchez asked you before the break about this
15:33:14 20 payment to you from Nayen. Do you recall that?

15:33:20 21 A. Yes.

15:33:21 22 Q. How does Guillermo Herrera relate to that loan as Nayen
15:33:26 23 called it?

15:33:26 24 A. At the end, when I got the money from him, he asked me to
15:33:30 25 get that money in cash for Guillermo Herrera.

15:33:35 1 Q. So the loan that you got from Nayen was for?

15:33:39 2 A. Was for Guillermo Herrera.

15:33:41 3 Q. Guillermo Herrera.

15:33:47 4 THE COURT: Tell me that again. Went to where?

15:33:50 5 THE WITNESS: Excuse me?

15:33:51 6 THE COURT: Where did the money go to?

15:33:52 7 THE WITNESS: To Guillermo Herrera. Guillermo Herrera

15:33:57 8 was the person that introduced Carlos Nayen.

15:33:59 9 Q. (BY MR. GARDNER) He was the politician?

15:34:00 10 A. Yes. Is.

15:34:01 11 Q. Is a politician. Do you know who this woman is, Maria Emma

15:34:08 12 Salman-Rocha?

15:34:09 13 A. No, sir.

15:34:13 14 Q. Pass the witness, your Honor.

15:34:15 15 THE COURT: Any further questions?

15:34:16 16 MS. WILLIAMS: No, your Honor.

15:34:18 17 MR. SANCHEZ: No, your Honor.

15:34:20 18 MR. ESPER: No, your Honor.

15:34:21 19 THE COURT: May this witness be excused? You may be

15:34:26 20 excused, sir. You may call your next witness.

15:34:33 21 MR. GARDNER: Thank you, your Honor. The government

15:34:34 22 would call Jeff Tebow.

15:35:22 23 (Witness sworn.)

15:35:33 24 THE COURT: Sir, tell us your full name and spell your

15:35:38 25 last.

15:35:40 1 THE WITNESS: My name is Jeff Tebow. Last name
15:35:45 2 spelled, T-E-B-O-W.

15:35:47 3 THE COURT: You may proceed.

15:35:48 4 JEFF TEBOW, called by the Government, duly sworn.

15:35:48 5 DIRECT EXAMINATION

15:35:48 6 BY MR. GARDNER:

15:35:49 7 Q. Thank you, your Honor.

15:35:50 8 Mr. Tebow, you and I have met before; is that correct?

15:35:53 9 A. Yes, sir.

15:35:54 10 Q. And if you will, could you please turn and introduce
15:35:56 11 yourself to the jury? Tell them a little bit about yourself, who
15:36:00 12 you are, and how old you are, and what you do for a living.

15:36:02 13 A. My name is Jeff Tebow. I'm from Piedmont, Oklahoma. I'm
15:36:06 14 the general manager and chief financial officer of Heritage
15:36:10 15 Place, horse sale auction company, located in Oklahoma City. I
15:36:14 16 am 46 years old.

15:36:15 17 Q. If you will, sir, could you tell the jury what Heritage
15:36:19 18 Place does?

15:36:19 19 A. Yes. Heritage Place is a horse sale auction company. We've
15:36:23 20 been in existence for, I believe, 37 years. We're the premier
15:36:28 21 quarter horse sale facility in the world for racing quarter
15:36:31 22 horses.

15:36:31 23 Q. And, sir, I want to turn your attention to some of the
15:36:34 24 individuals you've been involved with. First of all, do you know
15:36:38 25 or did you know a Ramiro Villarreal?

15:36:40 1 A. Yes, sir.

15:36:40 2 Q. And how did you know him as it relates to the auction

15:36:44 3 business, sir?

15:36:44 4 A. Ramiro Villarreal was a customer of Heritage Place for a

15:36:47 5 number of years. He bought a lot of horses.

15:36:49 6 Q. Did he buy horses for himself or was he acting as an agent?

15:36:53 7 A. It appeared that he was acting as an agent.

15:36:57 8 Q. And what type of, say, stock or horses, for lack of a better

15:37:05 9 term, would he buy? Quality, I guess, is the better term.

15:37:07 10 A. For the most part, they were the better end -- what we call

15:37:10 11 the better end of the bloodstock of the higher pedigrees, the

15:37:14 12 better quality of horse.

15:37:16 13 Q. And was there a point when Mr. Villarreal stopped showing

15:37:19 14 up?

15:37:19 15 A. Yes, sir.

15:37:20 16 Q. And who showed up in his place?

15:37:28 17 A. His name was Carlito and Fernando is all I knew them by.

15:37:33 18 Q. And how did you relate them to being a replacement for

15:37:37 19 Ramiro Villarreal?

15:37:39 20 A. Ramiro actually told me that some of the customers that he

15:37:43 21 was buying for were now -- that he was no longer buying for them

15:37:48 22 and that they had replaced him.

15:37:52 23 Q. And if you will, can you describe to the jury the

15:37:56 24 relationship between Carlitos -- the person you know as Carlitos

15:38:01 25 and Fernando Garcia? Who was the boss? Who was the worker?

15:38:05 1 A. It seemed like Fernando, Carlito would have been in charge,
15:38:10 2 but they were always -- most of the time that they were together.
15:38:13 3 But oftentimes, I dealt with Fernando probably more than Carlito.
15:38:18 4 Q. And did Carlito speak English?
15:38:20 5 A. A little bit. Not very much but just a little bit.
15:38:23 6 Q. And how about Fernando?
15:38:24 7 A. Yes. He was fluent.
15:38:27 8 Q. Now, I want to turn your attention to the sale of a horse
15:38:30 9 named Dashin Follies. Could you tell the jury about the value of
15:38:36 10 Dashin Follies?
15:38:37 11 A. Yes, sir. Dashin Follies was a mare. I believe we sold in
15:38:42 12 January what we refer to as the winter mixed sale in 2010. She
15:38:47 13 was probably one of the highest-priced mares that we'd ever sold
15:38:52 14 at Heritage Place. She was a brood mare that had offspring. She
15:38:57 15 had been a dam offspring of some very valuable horses in our
15:39:02 16 industry, and we sold that mare at that sale.
15:39:05 17 Q. And in our conversations, you used a phrase, to play at the
15:39:12 18 elite as it relates to Dashin Follies. What did you mean by
15:39:14 19 that?
15:39:14 20 A. Would you repeat that, please?
15:39:15 21 Q. Play at the elite or play at the elite level?
15:39:19 22 A. Yeah. Well, in our industry, mares like Dashin Follies
15:39:23 23 don't come along very often. They're referred to as what we
15:39:26 24 refer to as a blue hen mare. They're the best of the best. And
15:39:31 25 we were very honored as an auction company to get the opportunity

15:39:34 1 to sell that mare, and so, we sold her at that winter mixed sale

15:39:40 2 in -- I believe the final bid price was \$875,000.

15:39:47 3 Q. And who acted as the agent for that sale?

15:39:51 4 A. Tyler Graham.

15:39:53 5 Q. Now, do you know a Jose Trevino?

15:39:56 6 A. Yes, sir.

15:39:56 7 Q. And how do you know him, sir?

15:39:58 8 A. Just through the horse business.

15:40:00 9 Q. Would he attend your auctions?

15:40:02 10 A. Yeah, some of them. Yes.

15:40:03 11 Q. And when did you first start seeing him attending the

15:40:06 12 auctions?

15:40:07 13 A. About the time -- I think the winter mixed sale of 2010,

15:40:13 14 somewhere around there.

15:40:14 15 Q. So I want to talk about the sale of a horse named Blues

15:40:21 16 Ferrari. Are you familiar with that horse, sir?

15:40:22 17 A. Yes, sir.

15:40:24 18 Q. I'm showing you -- they've been admitted -- Government's

15:40:29 19 Exhibit 359A, look at the screen in front of you, and 359B. Do

15:40:38 20 you recognize those photographs, sir?

15:40:40 21 A. Yes, sir.

15:40:40 22 Q. Who took those photographs?

15:40:42 23 A. I did.

15:40:46 24 Q. Obviously you were in the office, but how did you take the

15:40:49 25 photographs?

15:40:50 1 A. With my cellphone.

15:40:51 2 Q. Can you describe to the jury why you took those photographs?

15:40:55 3 A. Yeah. This particular photo was taken here, I'd never seen

15:41:00 4 this gentleman before who showed up at our auction, and he

15:41:03 5 purchased this horse called Blues Ferrari that was a full brother

15:41:07 6 to a world champion mare in our industry, a mare whose name was

15:41:13 7 Blues Girl Too. So the pedigree for this horse was very

15:41:17 8 valuable. However, I believe that this horse was a

15:41:20 9 three-year-old at the time that we sold him. And in our

15:41:23 10 industry, that horse's premier racing age is as a two- and a

15:41:27 11 three-year-old. And this horse had raced but, yet, had not done

15:41:30 12 very well.

15:41:31 13 This horse was consigned to our sale and it was

15:41:35 14 purchased by this gentleman here, and I'd never seen this

15:41:40 15 gentleman before. So I was a bit alarmed who this person was and

15:41:45 16 how we were going to obtain the funds. You know, this person was

15:41:49 17 going to be making payment on these horses, and this happens to

15:41:53 18 be when he was in an area in our office where they check out.

15:41:59 19 So I remember this because this horse brought a lot of

15:42:02 20 money for how well it happened to perform or the lack of

15:42:07 21 performance, I guess you would say, with this horse having. I

15:42:10 22 think this horse sold in excess of 300 -- \$310,000 and this

15:42:14 23 gentleman was writing two checks, one which we were told that we

15:42:19 24 could deposit immediately, and it seemed like the next check for

15:42:24 25 the other half. The remaining amount was to be able to be

15:42:28 1 deposited a week or ten days later, something of that nature.

15:42:32 2 Q. Now, what was the physical condition of this gentleman when

15:42:34 3 you saw him?

15:42:35 4 A. Well, that was another reason that I had some concern. I

15:42:41 5 don't know. The picture quality is not that good. But this

15:42:44 6 person had looked like he had been in an accident or something

15:42:48 7 had happened. I remembered his -- I think you can see there from

15:42:51 8 his left finger was swole up. His head was kind of swole up, and

15:42:57 9 so, it was just really -- I don't know, I just -- I'd never seen

15:43:01 10 this person before and they were buying a very expensive horse,

15:43:04 11 and I was just very concerned with the transaction at the time.

15:43:09 12 Q. Now, you know these two individuals sitting next to him in

15:43:13 13 359A?

15:43:15 14 A. Well, yes, sir. The one on the left standing up is

15:43:21 15 Fernando. I can't tell from that picture who that is.

15:43:24 16 Q. Okay.

15:43:25 17 A. Sitting there.

15:43:26 18 Q. And, again, obviously this is the individual who purchased

15:43:30 19 the horse, correct?

15:43:30 20 A. Yes, sir.

15:43:32 21 Q. Now, you said something about Blues Ferrari having good

15:43:35 22 pedigree but didn't race very well. What condition was that

15:43:37 23 horse brought into the auction arena?

15:43:40 24 A. I wasn't -- you know, when I manage a sale and I believe at

15:43:46 25 that sale, we had 12 or 1,300 horses. But from time to time, I'm

15:43:52 1 out back, I'm in the sale ring, I'm just kind of all over the
15:43:55 2 place. But I remembered what that mare looked like, and I wanted
15:43:58 3 to see the condition of this horse because I knew that there was
15:44:01 4 a good chance, you know, even with the pedigree that it would
15:44:04 5 sell well.

15:44:05 6 But I went and looked at the horse and I was a little
15:44:09 7 -- kind of amazed, I guess, if you will, the condition of the
15:44:12 8 horse wasn't that great. I remember the horse being kind of
15:44:14 9 thin, and that's what I remembered about the horse.

15:44:21 10 Q. I don't think we've learned yet, the jury hadn't learned
15:44:25 11 yet. What -- when we need to -- I'm sorry. I'm stepping over
15:44:29 12 myself. When you bring a horse into the ring, when you want him
15:44:33 13 in good condition, can you define good condition or sale
15:44:36 14 condition for the jury?

15:44:37 15 A. Well, I think the condition of a horse oftentimes depends on
15:44:42 16 what the horse's use is. A horse -- for example, we sell a lot
15:44:48 17 of yearlings and those are horses that are one year old that are
15:44:51 18 going to be racing the next year, and oftentimes, it seems that
15:44:55 19 those horses that have a good hair coat, have good conditioning,
15:45:00 20 seem to obviously bring more money than one that has long hair,
15:45:05 21 doesn't appear that it's been cared for, you know. A brood mare,
15:45:10 22 you know, is not as important as a horse of racing age, for
15:45:16 23 example, as Blues Ferrari was.

15:45:17 24 But the overall condition of a horse, just kind of the
15:45:22 25 better they look in their hair coating, if they're carrying good

15:45:25 1 weight and appear to be sound, seem to be advantageous in the
15:45:29 2 auction environment.

15:45:31 3 Q. Were you surprised when Blues Ferrari went for \$310,000?

15:45:35 4 A. Yes, sir.

15:45:37 5 Q. Now, I want to jump ahead to the fall mixed sale the same
15:45:41 6 year. Were you familiar with Forty Horses, Number One Cartel,
15:45:47 7 Devils Ridge, Blues Girls Choice and Forty Force?

15:45:50 8 A. I remember those horses being in our sale. Yes, sir.

15:45:53 9 Q. Again, the same question. Were you surprised at the amount
15:45:56 10 that those four horses brought at that sale?

15:45:58 11 A. Yes, sir.

15:46:05 12 Q. I want to show you one Exhibit 28D. Do you recognize that,
15:46:11 13 sir?

15:46:12 14 A. Yes, sir.

15:46:13 15 Q. You, in fact, gave that book to me some months ago, correct?

15:46:16 16 A. Yes, sir.

15:46:17 17 Q. And what is that book?

15:46:19 18 A. This is our sale catalog from the 2012 January winter mixed
15:46:23 19 sale.

15:46:25 20 Q. Your Honor, I offer Government's Exhibit 28D.

15:46:32 21 MR. DEGEURIN: The entire book?

15:46:33 22 MR. GARDNER: Yes.

15:47:06 23 MR. DEGEURIN: Your Honor, I just think it's a lot for
15:47:11 24 the jury to digest. But I won't -- I will not object. It will
15:47:20 25 be under 403-type objection. Maybe we'll work out a way to

15:47:24 1 identify the particular pages.

15:47:28 2 MR. GARDNER: I could make sure the record shows that,
15:47:30 3 your Honor.

15:47:30 4 THE COURT: I hear no objection. 28D is in. And
15:47:36 5 however you want to proceed.

15:47:38 6 MR. GARDNER: Thank you, your Honor.

15:47:38 7 THE COURT: Just show counsel if he's going to change
15:47:41 8 it in any way.

15:47:41 9 MR. GARDNER: Yes, sir.

15:47:42 10 THE COURT: All right.

15:47:42 11 Q. (BY MR. GARDNER) Mr. Tebow, what's the purpose of this book
15:47:45 12 or books like it?

15:47:48 13 A. The purpose of that book is to identify the horses that will
15:47:51 14 be sold and each page in there is -- describes the name or the
15:47:57 15 horse, we call them a hip number, which is the order of sale
15:48:01 16 delivery. A horse that's in there would have a particular order
15:48:04 17 and following a chronological order through the sale.

15:48:07 18 Q. Again, this is the January -- let me just show it. This is
15:48:12 19 the January 19th and 21st, 2012 sale?

15:48:16 20 A. Yes, sir.

15:48:17 21 Q. Now, does each horse that's listed in the book, is it
15:48:20 22 required to come through the sale ring at Heritage Place to be
15:48:23 23 sold?

15:48:24 24 A. Yes, sir.

15:48:26 25 Q. I want to go to a couple of examples. Turn to page or,

15:48:34 1 rather, a horse with hip No. 210, and, Mr. Tebow, for the record,

15:48:42 2 that horse's name is Mr. Perrys Wine, correct?

15:48:44 3 A. Yes, sir.

15:48:45 4 Q. So what it says here across the very top, consigned by Lazy

15:48:49 5 E Ranch for La Feliz Montana Ranch. What's that mean?

15:48:53 6 A. Well, Lazy E Ranch is a business that represents consigners

15:49:04 7 in our industry, probably one of the biggest bloodstock agents

15:49:07 8 and consigners in our industry. And this particular horse was

15:49:12 9 consigned by La Feliz Montana that had a complete dispersal in

15:49:18 10 that sale.

15:49:18 11 Q. And so, by that consignment, is Lazy E Ranch the business

15:49:24 12 that's responsible for getting that horse to the auction,

15:49:27 13 prepping it and showing it?

15:49:28 14 A. Well, they're certainly responsible for that horse while

15:49:33 15 it's at Heritage Place. Yes, sir.

15:49:34 16 Q. And how long before the auction are the consignees or --

15:49:39 17 yeah, consignees required to have the horse at Heritage Place?

15:49:42 18 A. Usually it's -- I think our sale conditions require it to be

15:49:46 19 there the morning of. But the majority of time, horses are there

15:49:49 20 a day or two before so that the buying public can show up and

15:49:53 21 inspect horses and allow Lazy E to do what their job is, which is

15:49:58 22 to show the horses and try to promote them.

15:50:01 23 Q. So prior to this auction, do you have any knowledge where

15:50:05 24 this particular horse was?

15:50:06 25 A. No. I don't.

15:50:09 1 Q. I want to show you one more. Hip No. 444, Katies Sign, it's
15:50:15 2 signed by Jerry Windham. Again, is Mr. Windham the person who is
15:50:21 3 bringing it to the auction for sale?

15:50:23 4 A. Yeah. He's the one that on our records show that he's the
15:50:26 5 consigner of the horse. Yes, sir.

15:50:27 6 Q. And, again, do you have any idea where Mr. Windham had
15:50:31 7 Katies Sign before the January 18, 2012 auction?

15:50:35 8 A. I have no knowledge of where that mare was prior to the
15:50:38 9 sale.

15:50:38 10 Q. And, sir, if you will generally explain what the rest of the
15:50:41 11 information is on this page.

15:50:45 12 A. Well, if you can take it out a little bit further maybe.
15:50:50 13 You look at this page, would you slide it down just a little bit
15:50:54 14 so I could see the top? Katies Sign is the name of the mare.
15:50:57 15 She's a 2000 sorrel mare. Sorrel being the color. And the SI
15:51:01 16 104 refers to speed index of 104. So it meant that that mare at
15:51:08 17 some point in her career had a speed index of 104, which is a
15:51:11 18 very high speed index that shows that she was a fast mare on the
15:51:16 19 race track.

15:51:16 20 The first dam, if you look at the pedigree, Vital Signs
15:51:21 21 is the sire or the father of that mare, if you will, and Runaway
15:51:26 22 Kate would be the mother. And then, you go to the paternal and
15:51:30 23 maternal pedigree there, as you read down the page and, you know,
15:51:35 24 the different colors, the bold type, whether something's
15:51:40 25 capitalized in bold or is not capitalized but bold, it has

15:51:47 1 different meanings, means that they were either a stakes winner
15:51:51 2 or a stakes placer.

15:51:55 3 So there's a lot of different things that as you become
15:51:57 4 familiar with this industry, you can read this pedigree and you
15:52:00 5 can see what the -- kind of what the lineage is, if you will.

15:52:03 6 Q. So the history of the horse and the horse's parents?

15:52:05 7 A. Yes, sir.

15:52:05 8 Q. May I have one moment?

15:52:12 9 THE COURT: Yes, sir.

15:52:20 10 Q. (BY MR. GARDNER) Sir, do you know an individual named Luis
15:52:23 11 Aguirre?

15:52:25 12 A. Well, the name sounds real familiar, but I can't picture. I
15:52:29 13 know that we've done business, but I can't picture that person in
15:52:33 14 my mind right now.

15:52:34 15 Q. Can you picture -- I know it's been a long time ago. Can
15:52:38 16 you picture any of the horses he purchased?

15:52:41 17 A. No, sir.

15:52:43 18 Q. I won't ask you to. Your Honor, I pass the witness.

15:52:47 19 CROSS-EXAMINATION

15:52:47 20 BY MS. WILLIAMS:

15:53:04 21 Q. Mr. Tebow, my name's Christie Williams. I just have a
15:53:08 22 couple of questions for you.

15:53:09 23 I bet if I give you this book, you could do this a lot
15:53:16 24 more quickly. Can you find Blues Ferrari in this book for me?
15:53:27 25 So you're looking in the front and there's an index of all the

15:53:30 1 hip numbers, and I think it's alphabetical.

15:53:32 2 A. Yes, ma'am. There's several different indexes. There's one

15:53:36 3 that's indexed to horses and one is an index to the sire and dam.

15:53:45 4 Q. So if you were --

15:53:46 5 A. I don't think Blues Ferrari is in this book, ma'am, based on

15:53:50 6 the index of horses here. I don't think that was the sale that

15:53:54 7 that horse was in.

15:53:55 8 Q. This is the 2012 book.

15:54:04 9 You talked to the prosecutor about something called a

15:54:09 10 blue hen mare. Do you remember that?

15:54:11 11 A. Yes, ma'am.

15:54:12 12 Q. Would Corona Cartel fall into that category?

15:54:16 13 A. No, ma'am.

15:54:16 14 Q. Why not?

15:54:18 15 A. A blue hen mare is referring to the female line, a female

15:54:23 16 horse; so, therefore, that wouldn't be the case because Corona

15:54:26 17 Cartel is a stallion.

15:54:27 18 Q. Makes a lot of sense.

15:54:29 19 Who -- well, Corona Cartel is a famous stallion.

15:54:36 20 A. Yes, sir -- I mean, yes, ma'am.

15:54:37 21 Q. Okay. Now we're even.

15:54:41 22 Do you have any independent recollection of when that

15:54:44 23 horse was born?

15:54:45 24 A. Corona Cartel, you're asking about?

15:54:47 25 Q. I am.

15:54:48 1 A. Roughly 16, 17 years ago.

15:54:50 2 Q. 1994, does that sound about right?

15:54:52 3 A. Yes, ma'am.

15:54:52 4 Q. Okay.

15:54:53 5 A. Probably.

15:54:54 6 Q. And when that horse was first purchased, do you know the

15:54:58 7 first owner of Corona Cartel?

15:55:00 8 A. I believe I do. Yes, ma'am.

15:55:01 9 Q. Who is that?

15:55:02 10 A. Her name is Salina Molina.

15:55:05 11 Q. All right. And so, Salina Molina's father, I think, bought

15:55:12 12 that horse for her when it was a baby horse. Is that -- do you

15:55:16 13 know? It's okay if you don't know.

15:55:17 14 A. Yeah. I mean, I think the horse was purchased as a

15:55:21 15 yearling. Yes, ma'am.

15:55:21 16 Q. Right. And after that, ran some races, won some money and

15:55:28 17 became a very valuable stallion?

15:55:30 18 A. Yes, ma'am.

15:55:31 19 Q. And after Salina Molina, who owned that horse?

15:55:36 20 A. I believe the horse was what in our industry, what we term

15:55:41 21 syndicated.

15:55:41 22 Q. Okay. Do you know who syndicated?

15:55:44 23 A. I believe Butch Wise syndicated that horse. I believe it

15:55:49 24 was a syndicate manager.

15:55:50 25 Q. And you had previously been asked a question by the

15:55:55 1 prosecutor about the Lazy E Ranch. Is that Butch Wise's ranch?

15:55:59 2 A. Actually, I don't believe he owns it. I think he's just a

15:56:03 3 manager or employee of some kind.

15:56:05 4 Q. When you say the name Butch Wise and Lazy E, they kind of go

15:56:09 5 together in the horse industry?

15:56:09 6 A. Yeah. I think most people understand that the Lazy E horse

15:56:13 7 operation, it's a multifaceted deal. But when you're talking

15:56:16 8 about the Lazy E Ranch and the racing quarter horses, I think Mr.

15:56:21 9 Wise has been there for a number of years, 15, 20 years. So

15:56:23 10 yeah, I think that would be safe to say that.

15:56:25 11 Q. And so, Corona Cartel gets syndicated, and the members of

15:56:31 12 the jury have heard a little bit about how that works. And it's

15:56:36 13 managed, the syndicate, as I understand it -- and correct me if

15:56:39 14 I'm wrong -- is managed by the Lazy E Ranch.

15:56:43 15 A. Yes. I believe that's correct.

15:56:45 16 Q. So if you are either, number one, part of that syndicate,

15:56:50 17 which means you get a couple of breedings a year, or, number two,

15:56:53 18 you buy a breeding of the horse Corona Cartel, you're going to

15:56:57 19 deal with the Lazy E Ranch?

15:56:59 20 A. Yes, ma'am.

15:57:00 21 Q. And because of the way bloodlines of horses work, if you

15:57:05 22 have a baby that is sired by Corona Cartel, you're likely going

15:57:11 23 to name the horse something-Cartel?

15:57:13 24 A. Yes, ma'am.

15:57:14 25 Q. Because, number one, you want people to know that that's the

15:57:18 1 bloodlines of that horse; is that right?

15:57:21 2 A. Yes, ma'am.

15:57:22 3 Q. And, number two, because they know that that's the

15:57:25 4 bloodlines of that horse, it probably makes it more valuable

15:57:28 5 theoretically?

15:57:29 6 A. Theoretically. Yes, ma'am.

15:57:31 7 Q. So while we're talking about theory, when you sell a horse

15:57:40 8 at auction, you might predict in your own head, knowing what you

15:57:47 9 do about horses, how much the horse is going to sell for, but the

15:57:53 10 horse sells for however much somebody's willing to buy for it?

15:57:57 11 A. Yes, ma'am.

15:57:58 12 Q. And sometimes you're surprised by that?

15:57:59 13 A. Yes, ma'am.

15:58:00 14 Q. You said you were surprised by this horse sale. This was

15:58:03 15 the first time you were surprised by how much a horse sold for or

15:58:06 16 didn't sell for?

15:58:07 17 A. That's correct.

15:58:08 18 Q. Now, who was the consigner of Blues Ferrari?

15:58:12 19 A. I believe that was Southwest Stallion Station.

15:58:17 20 Q. And tell the members of the jury when -- I mean, I think you

15:58:20 21 alluded to this a little bit on direct examination, but when

15:58:22 22 you're the consigner of a horse at auction, it's your

15:58:25 23 responsibility to prepare that horse and bring it and make sure

15:58:29 24 that it's -- looks good for the sale.

15:58:35 25 A. Well, I would say that as a consigner, some consigners get

15:58:40 1 horses sent to them well in advance of an auction, and so, they
15:58:44 2 may have them for 90, 120 days, maybe longer. They may have even
15:58:49 3 raised the horse for a consigner and they do that. And I know
15:58:53 4 oftentimes, that a horse is brought to our sale as, for example,
15:58:59 5 Lazy E agent and Lazy E will have not seen or done anything to
15:59:05 6 that horse until it gets to the sale. So, therefore, you know,
15:59:09 7 they're representing it at the sale, but they didn't have -- you
15:59:11 8 know, they didn't have it in their care, custody and control, if
15:59:14 9 you will, for a period of time where they could be responsible
15:59:17 10 for, really, the condition of the horse.

15:59:19 11 So I think that it's oftentimes, it's both. They've
15:59:23 12 had it in their possession for a period of time, and other times,
15:59:27 13 a horse -- an owner just brings the horse to the sale, and they
15:59:30 14 put it with a agent, if you will, that's going to represent them
15:59:35 15 at the sale.

15:59:36 16 Q. Who owns Southwest Stallion Station?

15:59:39 17 A. I understand Dr. Charles Graham. Dr. Charlie Graham.

15:59:44 18 Q. And he also owns your auction or is part owner of the
15:59:48 19 auction. Is that true?

15:59:49 20 A. Yes, ma'am. That's correct.

15:59:50 21 Q. Does that make him your boss?

15:59:51 22 A. Yes, ma'am.

15:59:52 23 Q. All right. And who runs Southwest Stallion Station?

15:59:56 24 A. Dr. Graham and his grandson Tyler Graham.

16:00:01 25 Q. And you're very familiar with those two?

16:00:03 1 A. Yes, ma'am.

16:00:07 2 Q. What does it mean to be Oklahoma-bred?

16:00:15 3 A. Oklahoma-bred is a status that is designated on a horse

16:00:22 4 meaning that that horse was eligible to be accredited

16:00:28 5 Oklahoma-bred.

16:00:29 6 Q. And explain to the members of the jury what that does, I

16:00:32 7 guess, potentially to the value of the horse.

16:00:35 8 A. The reason that there are state-bred programs like, for

16:00:39 9 example, an Oklahoma-bred or there's Louisiana, New Mexico,

16:00:42 10 Texas, there's lot of them -- there is value in having an

16:00:47 11 Oklahoma-bred because of the state organizations, there is

16:00:50 12 additional money or incentives in the form of money that these

16:00:55 13 horses are eligible for. So, as an example, you can have an

16:01:00 14 Oklahoma-bred horse that's racing, and if it's Oklahoma-bred and

16:01:04 15 it wins a race, the Oklahoma-bred fund would give additional

16:01:08 16 compensation or additional prize money for that horse, as well as

16:01:12 17 the mare owner could earn money every time the offspring ran,

16:01:18 18 even though they didn't own it anymore if they were the breeder

16:01:21 19 of it.

16:01:22 20 And the same for the stallion. If the stallion bred

16:01:24 21 that offspring and foal that went on to win, even though they no

16:01:28 22 longer have ownership of, if the offspring is successful, the

16:01:31 23 mare owner and the stallion owner, as well as the owner of the

16:01:35 24 horse that's competing get additional incentives.

16:01:39 25 Q. And what has to -- in timing, what has to happen during the

16:01:44 1 breeding for the horse to be Oklahoma-bred?

16:01:47 2 A. Well, I'm certainly no expert in the Oklahoma-bred program,

16:01:50 3 but I do know that the mare has to be in Oklahoma at the time of

16:01:57 4 foaling. And when they are producing that foal, if you will,

16:02:03 5 during the breeding season, one year, they have to breed to an

16:02:08 6 instate stallion. A stallion standing in Oklahoma and that's the

16:02:11 7 incentive to get stallions to come to the state of Oklahoma. And

16:02:15 8 then, every other year, they can breed out of state, and they can

16:02:18 9 choose to breed to a stallion that may be located in Texas, or

16:02:22 10 Arkansas, or, really, anywhere else. So that's kind of how that,

16:02:25 11 works, but I'm certainly no expert in it.

16:02:28 12 Q. How did you meet Jose Trevino?

16:02:31 13 A. I just met Jose there at Heritage Place -- I believe is

16:02:36 14 probably the first time I was introduced to him.

16:02:38 15 Q. Did Tyler Graham introduce you to him or do you know?

16:02:40 16 A. I don't know that.

16:02:42 17 Q. Several times, you went to breakfast with Jose Trevino and

16:02:48 18 Tyler Graham and Dr. Graham. Do you remember that?

16:02:51 19 A. Yeah. I've had several meals with Mr. Trevino.

16:02:55 20 Q. And you're aware that he and Tyler Graham were associated

16:03:03 21 with this horse Tempting Dash?

16:03:06 22 A. Yes, ma'am.

16:03:07 23 Q. And Tyler Graham wanted that horse, Tempting Dash, didn't

16:03:14 24 he? Do you know?

16:03:15 25 A. Wanted him in what sense?

16:03:17 1 Q. Wanted to own the horse.

16:03:21 2 A. I don't know. A sense of owning him, I don't know about

16:03:24 3 that.

16:03:25 4 Q. Do you remember when Mr. Trevino decided that he was going

16:03:30 5 to buy some land?

16:03:31 6 A. Yes, ma'am.

16:03:32 7 Q. And you helped him with that, didn't you?

16:03:34 8 A. No. I didn't help him with the ranch, but I remember

16:03:37 9 talking with him, and we went and looked at a ranch together and

16:03:41 10 spent the afternoon and looking at a couple of places. And he

16:03:43 11 would come to my office and talk about, you know, buying land in

16:03:47 12 Oklahoma.

16:03:48 13 Q. And there were two reasons why Mr. Trevino wanted to buy

16:03:52 14 some land in Oklahoma. Number one was the Oklahoma-bred program

16:03:56 15 I think that you just talked to the jury about. Do you remember

16:04:00 16 that?

16:04:00 17 A. Yes, ma'am.

16:04:01 18 Q. And the second was because he wanted to get out of Texas and

16:04:05 19 get away from the influence of the Grahams. Is that true?

16:04:09 20 A. Yeah. I don't know about the second statement, but I do

16:04:12 21 know that there's lots of people that wanted to come to Oklahoma

16:04:16 22 because of the Oklahoma-bred program. Unfortunately, Texas

16:04:18 23 doesn't have the type of program some of the other states do, and

16:04:21 24 it's good ranching, good horse country up there.

16:04:23 25 Q. Jose Trevino was always polite?

16:04:27 1 A. Yes, ma'am.

16:04:28 2 Q. Appeared to really want to do well in the horse business?

16:04:31 3 A. Yes, ma'am.

16:04:32 4 Q. Worked hard?

16:04:33 5 A. Yeah. Seemed to. Very much. Wanted to really -- tried

16:04:38 6 hard to become a student in the industry.

16:04:40 7 Q. Asked a lot of questions, didn't he?

16:04:42 8 A. Yes, ma'am.

16:04:42 9 Q. No further questions.

16:04:46 10 THE COURT: Mr. DeGeurin.

16:04:48 11 MR. DEGEURIN: No questions, your Honor.

16:04:49 12 THE COURT: Mr. Womack.

16:04:50 13 MR. WOMACK: Yes, sir, thank you.

16:04:51 14 CROSS-EXAMINATION

16:04:52 15 BY MR. WOMACK:

16:04:52 16 Q. Good afternoon, Mr. Tebow.

16:04:54 17 A. Good afternoon.

16:04:55 18 Q. I'm Guy Womack. I'm from Houston and I represent Fernando

16:04:59 19 Garcia. You know Fernando?

16:05:00 20 A. Yes.

16:05:01 21 Q. I'll get to that in just a minute. But first, I want to ask

16:05:04 22 you about a couple of horses. It was page 210 of this catalog

16:05:09 23 from 2012, had a horse named Mr. Perrys Wine. Do you remember

16:05:19 24 that?

16:05:19 25 A. Yes, sir.

16:05:20 1 Q. And Mr. Perrys Wine was a blue hen mare.

16:05:23 2 A. Yeah. She was a nice mare. Yes, sir.

16:05:27 3 Q. And do you recall that her sire was Mr. Jess Perry?

16:05:32 4 A. Yes, sir.

16:05:33 5 Q. And you know that Mr. Jess Perry was also the sire of the

16:05:38 6 horse Mr. Piloto?

16:05:41 7 A. Yes, sir.

16:05:42 8 Q. So she's the -- I guess you could say, she's the younger

16:05:46 9 half-sister of Mr. Piloto?

16:05:48 10 A. Yeah. I think she's the older half-sister, but yeah,

16:05:51 11 they're bred the same way.

16:05:52 12 Q. Okay. She was older than him?

16:05:53 13 A. Yes.

16:05:53 14 Q. Okay. I'm sorry. That's right. She was sold in 2012, but

16:05:58 15 she was a brooding mare at that point?

16:06:00 16 A. Yeah. Just recalling the pedigree page a minute ago, I

16:06:03 17 believe she was foaled in maybe 2006? Is that correct? I'm not

16:06:09 18 supposed to be asking you questions.

16:06:10 19 Q. That's fine. You can ask me, but I won't know the answer.

16:06:17 20 Regarding this Corona Cartel, as you know about Corona

16:06:24 21 Cartel, wasn't Corona, California the town where the breeder was

16:06:28 22 located when that horse was born?

16:06:29 23 A. I have no idea. I don't know that, sir.

16:06:32 24 Q. Okay. And you wouldn't know anything else about the naming

16:06:36 25 of that horse, would you?

16:06:37 1 A. No, sir.

16:06:37 2 Q. Okay. Back to Fernando Garcia. You've seen Fernando at

16:06:42 3 your sale a number of times?

16:06:43 4 A. Yes, sir.

16:06:43 5 Q. And you know that he goes there and acts as a representative

16:06:48 6 for a number of buyers that are looking at horses.

16:06:51 7 A. Yes, sir.

16:06:52 8 Q. And he's bought horses himself there?

16:06:54 9 A. I believe so. Yes, sir.

16:06:56 10 Q. And you know the name of his company Garcia Bloodstock and

16:07:01 11 Racing, don't you?

16:07:08 12 A. Yes, sir.

16:07:09 13 Q. Thank you. No further questions, sir.

16:07:17 14 MR. ESPER: No questions, Judge Sparks.

16:07:19 15 MR. MAYR: No questions, your Honor.

16:07:21 16 THE COURT: Any direct?

16:07:22 17 MR. GARDNER: Yes, your Honor. Thank you.

16:07:23 18 RE-DIRECT EXAMINATION

16:07:23 19 BY MR. GARDNER:

16:07:25 20 Q. Mr. Tebow, Ms. Williams asked you about no guarantees. Are

16:07:31 21 there any guarantees when selecting a horse on the bloodlines

16:07:35 22 that it's going to do well in racing?

16:07:37 23 A. No, sir.

16:07:38 24 Q. That's why they call it gambling, right?

16:07:41 25 A. Yes, sir.

16:07:41 1 Q. She also asked you that a horse sells as much as a horse is
16:07:47 2 going to sell for. Do you recall that question?

16:07:48 3 A. Yes, sir.

16:07:49 4 Q. I walk into Heritage Place, could I bid on a horse?

16:07:53 5 A. Yes, sir. We try to -- we have a procedure that we go
16:07:56 6 through that we want people to be kind of registered before they
16:08:00 7 buy, but unfortunately, that doesn't always happen.

16:08:03 8 Q. So if I wanted to bid against Ms. Fernald here, she could
16:08:08 9 raise her hand on one bid and I could raise my hand on the next
16:08:11 10 bid?

16:08:11 11 A. Yes, sir.

16:08:12 12 Q. Do you know where Mr. Del Rayo got his money from to use to
16:08:16 13 pay for Blues Ferrari?

16:08:18 14 A. No, sir.

16:08:18 15 Q. Do you know where Mr. Trevino got his money from?

16:08:20 16 A. No, sir.

16:08:21 17 Q. Pass the witness, your Honor.

16:08:24 18 THE COURT: Any other questions? May this witness be
16:08:29 19 excused?

16:08:30 20 MR. FINN: Your Honor, can you -- one second. Thank
16:08:32 21 you.

16:08:32 22 THE COURT: Yes, sir.

16:08:44 23 MS. WILLIAMS: Nothing further, your Honor.

16:08:46 24 THE COURT: May the witness be excused?

16:08:53 25 MR. MAYR: Yes, your Honor.

16:08:53 1 THE COURT: Call your next witness.

16:08:56 2 MR. GARDNER: Your Honor, the government calls Myrna

16:09:00 3 Reyes.

16:09:40 4 (Witness sworn.)

16:10:04 5 THE COURT: Tell us your full name and spell your last

16:10:07 6 name, please.

16:10:08 7 THE WITNESS: My name is Myrna Carolina Reyes,

16:10:13 8 R-E-Y-E-S.

16:10:14 9 MYRNA C. REYES, called by the Government, duly sworn.

16:10:14 10 DIRECT EXAMINATION

16:10:14 11 BY MR. GARDNER:

16:10:15 12 Q. Thank you, your Honor.

16:10:15 13 Good afternoon, Ms. Reyes. You and I met before,

16:10:18 14 correct?

16:10:18 15 A. Yes, sir.

16:10:19 16 Q. Could you please introduce yourself to the jury and explain

16:10:21 17 to them what you do for a living, please?

16:10:22 18 A. I am a supervisory Customs and Border Protection officer.

16:10:27 19 Q. And what are your current duties as a Customs and Border

16:10:31 20 Protection officer?

16:10:33 21 A. I am assigned to the administrative office. I oversee

16:10:38 22 several offices, which include human resource, payroll.

16:10:43 23 MR. ESPER: Excuse me, your Honor, could the witness

16:10:46 24 speak up?

16:10:47 25 THE WITNESS: I'm sorry.

16:10:49 1 A. I oversee several offices, human resources, payroll, time
16:10:54 2 and attendance, property, the privacy office, which deals with
16:10:59 3 records, workers compensation, among other administrative duties.

16:11:05 4 Q. (BY MR. GARDNER) And what does the Customs and Border
16:11:08 5 Protection Office do?

16:11:10 6 A. The agency, essentially in a nutshell, all it does is we
16:11:16 7 oversee the flow of legitimate travel and trade into the United
16:11:22 8 States from other countries.

16:11:23 9 Q. And is there a record made any time someone enters the
16:11:27 10 United States?

16:11:27 11 A. Yes, sir.

16:11:28 12 Q. And what's the purpose of that record being made?

16:11:30 13 A. For record purposes, archives.

16:11:36 14 Q. And let's say I come into the United States. What do I have
16:11:39 15 to do to gain entry and how is that reflected in the records?

16:11:45 16 A. Everyone is now mandated to prove your citizenship and
16:11:50 17 identity. You're required to begin -- if you're a nonimmigrant,
16:11:57 18 somebody who's not legally permitted to live in the United States
16:12:01 19 or U.S. citizen, you have to present a visa, a document that
16:12:05 20 allow lawful entry. And then, a declaration is taken of any
16:12:14 21 goods that you will be bringing in. There's also customs
16:12:18 22 regarding your -- the reason of your visit to the international
16:12:24 23 travel.

16:12:24 24 Q. So when somebody comes across and presents identification,
16:12:27 25 whether it be a U.S. citizen or a foreign national, is there

16:12:31 1 someone there taking that information and making a data entry?

16:12:34 2 A. Yes, sir. There's always a primary officer and you may be

16:12:37 3 referred in for a secondary examination.

16:12:40 4 Q. Okay. Can you define what the purpose of a secondary

16:12:42 5 examination is?

16:12:46 6 A. If there's any discrepancies in the primary inspection,

16:12:49 7 there may be some type of alert, as well, just refer the search.

16:12:56 8 Q. And when those records were made, are they stored in some

16:12:58 9 type of database?

16:12:59 10 A. Yes, sir. There's several databases.

16:13:03 11 Q. Officer Reyes, I'm showing you Government's Exhibit 401.

16:13:08 12 Did you prepare these documents at the request of my office for

16:13:12 13 trial here?

16:13:13 14 A. Yes, sir.

16:13:14 15 Q. All right. And they are the crossing documents for a number

16:13:17 16 of individuals, correct?

16:13:17 17 A. Yes, sir.

16:13:18 18 Q. All right. Now, there's a black mark on some of that

16:13:22 19 documents. What is underneath those redacted portions?

16:13:26 20 A. Some redactions, there's a couple of reasons why they may be

16:13:32 21 blacked out. One of the reasons is some of the information as a

16:13:36 22 personal identifier for that particular primary officer who are

16:13:41 23 making these records, and they constitute an unwarranted invasion

16:13:44 24 of privacy. And a second reason is some are internal codes,

16:13:49 25 technical codes that may disclose some law enforcement procedures

16:13:54 1 per our agency and eventually -- or it could be used to
16:13:58 2 circumvent the law if they fall into the wrong hands.

16:14:00 3 Q. Okay. And did you provide me with the exact set of the same
16:14:03 4 documents that did not have the redactions?

16:14:05 5 A. Yes, sir.

16:14:05 6 Q. All right. And, your Honor, I'll represent to the Court I
16:14:07 7 provided those for inspection to defense attorneys.

16:14:10 8 Now, all of these documents with the entry, data entry
16:14:13 9 in them, are they made at the time a person crosses the border?

16:14:17 10 A. Yes, sir.

16:14:18 11 Q. And is the data kept in a database for later retrieval?

16:14:24 12 A. Yes, sir.

16:14:24 13 Q. And what's the name of that database?

16:14:26 14 A. TECS.

16:14:26 15 Q. And who has access to TECS?

16:14:29 16 A. Customs and Border Protection officers, people who are
16:14:33 17 certified.

16:14:33 18 Q. Your Honor, I'll offer Government's Exhibit 401, public
16:14:38 19 record under hearsay exception 803(8).

16:14:42 20 MR. ESPER: Your Honor, may we approach there?

16:14:43 21 THE COURT: You may.

16:14:49 22 (At the bench, on the record.)

16:14:58 23 MR. ESPER: Your Honor, I'd object to the admission of
16:15:00 24 these particular documents. They are -- they constitute hearsay
16:15:05 25 that are not an exception to the hearsay rule. Number two, they

16:15:09 1 are made by someone we don't know who made the entries, and this
16:15:12 2 witness cannot testify to who made the entries. I don't believe
16:15:18 3 they qualify as a business record exception under the hearsay
16:15:20 4 rule, but they are clearly hearsay, and I'd move to exclude them
16:15:24 5 on that basis, your Honor.

16:15:25 6 MR. GARDNER: May I respond, your Honor?

16:15:28 7 MR. ESPER: I would like to state, on top of that, it's
16:15:30 8 a violation of the confrontation clause. We don't know who the
16:15:33 9 officer was that made the entries. Won't be able to question
16:15:36 10 them.

16:15:36 11 MR. GARDNER: Your Honor --

16:15:37 12 THE COURT: The last objection's overruled. Let me --
16:15:44 13 the document, are these entries? Anybody else want to state any
16:16:07 14 objections? The only thing that concerns me is you're going to
16:16:15 15 put these redacted ones in?

16:16:16 16 MR. GARDNER: Yes, your Honor. That's per the agency.
16:16:18 17 I could get the unredacted ones at the time. The agency asked me
16:16:21 18 not to submit the unredacted because of their codes and their
16:16:24 19 personnel identifiers.

16:16:25 20 THE COURT: Well, the only thing I don't like about it
16:16:29 21 is the jury not understanding what's on those. Tell you what
16:16:33 22 we'll do. The objections are overruled. The 401 will be
16:16:37 23 admitted. But let's put the unredacted in, and then, at the end
16:16:44 24 of the trial, you can move for substitution.

16:16:48 25 MR. GARDNER: Yes, sir. Thank you, your Honor.

16:16:49 1 THE COURT: All right.

16:17:00 2 Q. (BY MR. GARDNER) Now, Officer Reyes, I just want to go

16:17:17 3 through two of these documents just so we could sort of explain

16:17:19 4 to the jury what we're looking at. And, your Honor, per the

16:17:23 5 Court's ruling, I will substitute the unredacted ones at the end

16:17:27 6 of this case.

16:17:32 7 So these black marks are the redacted information on

16:17:35 8 the privacy.

16:17:36 9 A. Yes, sir.

16:17:37 10 Q. So what are we looking at here, Officer Reyes?

16:17:42 11 A. This is secondary inspection archive. They're pretty much

16:17:45 12 just documents what -- this vehicle was referred into for a

16:17:50 13 secondary inspection. And gives by graphic information, the time

16:17:54 14 when the vehicle crossed and there's -- there should be a second

16:17:58 15 screen of this.

16:17:59 16 THE COURT: Let me -- members of the jury, let me give

16:18:01 17 you an instruction here. When you get these exhibits, they're

16:18:06 18 not going to be redacted. At the end of the trial, I'm going to

16:18:12 19 substitute the exhibits that they're using that are redacted

16:18:16 20 because the redactions are either by regulation or statute

16:18:23 21 confidential information, but I don't want you guessing at what

16:18:27 22 those are because these are germane as to this lawsuit. So while

16:18:32 23 you're looking at redacted ones, you will not be looking at

16:18:35 24 redacted ones when you deliberate.

16:18:38 25 MR. GARDNER: Thank you, your Honor.

16:18:39 1 Q. (BY MR. GARDNER) And so, with this particular incident, who
16:18:43 2 was the individual who crossed?

16:18:44 3 A. Rodrigo Acevez-Avelose.

16:18:49 4 Q. And on the date, what is the date of that crossing?

16:18:52 5 A. I can't see it. It's July 27th, 2010.

16:18:58 6 Q. Okay. You said there is a secondary page.

16:19:00 7 A. It should be a second page right there. Yes.

16:19:03 8 Q. And what does that page represent?

16:19:06 9 A. It gives just the reason -- the first line is the reason the
16:19:10 10 vehicle was referred in. It's because there was some information
16:19:15 11 on Rodrigo Acevez-Avelose that merits secondary inspection. And
16:19:20 12 below it, it says the reason for his visit, which is to go to
16:19:27 13 Eagle Pass to drop off friends. And then, the fact that there
16:19:30 14 was negative findings, which means that there were -- there was
16:19:33 15 no reason to detain the gentleman or process him for any type of
16:19:38 16 adverse action. There was just negative inspection and he could
16:19:42 17 be on his way.

16:19:43 18 Q. And I'm showing you this third page. Is that a list of the
16:19:45 19 individuals that was contained in that particular car?

16:19:48 20 A. Yes, sir.

16:19:50 21 Q. For the record, it's Rodrigo Avelose, the driver, and then,
16:19:55 22 an individual name Adan Farias, and then, an individual named
16:20:00 23 Moreno-Villanueva?

16:20:02 24 A. Yes, sir.

16:20:03 25 Q. Now, so those records that have been introduced, they should

16:20:09 1 reflect the crossings and the times of each individual crossing
16:20:12 2 into the United States. Would that be a fair statement?
16:20:15 3 A. Yes, sir.
16:20:15 4 Q. Accurate statement? While I'm showing you another one and
16:20:21 5 these are the records for who?
16:20:25 6 A. This one is for Jose Trevino-Morales.
16:20:29 7 Q. And the address, is that the correct address in the United
16:20:33 8 States?
16:20:33 9 A. That's the address he -- the gentleman provided at the time
16:20:36 10 of his inspection.
16:20:40 11 Q. And then, on this particular statement, what is this
16:20:46 12 statement?
16:20:46 13 A. I'm sorry.
16:20:47 14 Q. I'm sorry. What's the purpose of this statement?
16:20:50 15 A. It's a narrative regarding the -- that particular
16:20:54 16 inspection. In this case, the gentleman must have been referred
16:20:58 17 in and it goes on to show what transpired during the inspection.
16:21:02 18 It was more so for -- anytime an individual is referred into
16:21:05 19 secondary to the office, per officer safety purposes, their
16:21:12 20 person's searched, they go through a pat-down, and you have to
16:21:15 21 record these on all pat-downs on a screen, which is this.
16:21:20 22 Q. So, in particular, this shows that Mr. Jose Gerardo
16:21:24 23 Chapa-Garcia came across with Mr. Jose Trevino, correct?
16:21:27 24 A. Their truck was -- yes. He accompanied him. Yes. The
16:21:32 25 truck was driven by Jose Gerardo Chapa and Mr. Trevino was in

16:21:37 1 there.

16:21:42 2 Q. And, Officer Reyes, instead of having you go through these,

16:21:46 3 I just want to ask you if you would agree with me these are the

16:21:49 4 crossing records for Felipe Quintero, Fernando Garcia, Rodrigo

16:21:54 5 Acevez, Carlos Nayen, Jose Trevino, Eusevio Huitron,

16:22:02 6 Colorado-Cessa, Raul Ramirez and Victor Lopez. Would you agree

16:22:05 7 with that?

16:22:05 8 A. Yes. Those are the ones -- the names that you gave me.

16:22:10 9 Q. May I have one moment, your Honor?

16:22:12 10 THE COURT: You may.

16:22:13 11 MR. GARDNER: I'll pass the witness, your Honor.

16:22:28 12 CROSS-EXAMINATION

16:22:28 13 BY MR. FINN:

16:22:32 14 Q. May it please the Court. Members of the jury.

16:22:35 15 Is it Agent Reyes or should I refer to you as Ms.

16:22:38 16 Reyes?

16:22:38 17 A. Officer Reyes.

16:22:39 18 Q. Officer? Okay.

16:22:41 19 My name is David Finn. We've never met or spoken, have

16:22:45 20 we?

16:22:45 21 A. No, sir.

16:22:45 22 Q. Okay. And the purpose of keeping these records that the

16:22:50 23 government just introduced is to more or less keep an eye on and

16:22:55 24 monitor who's going in or leaving the country or, more

16:22:59 25 importantly, entering this country, correct?

16:23:01 1 A. Yes. All applicants into the United States are.

16:23:05 2 Q. We're all American citizens and there's been a whole lot

16:23:09 3 going on in the world that would give us concern about people

16:23:12 4 coming into our country, correct?

16:23:14 5 A. Yes.

16:23:16 6 Q. Now, when my client came in, the record indicates that he's

16:23:22 7 a U.S. citizen, no criminal history, but there was an intensive

16:23:28 8 search. It says, I think, intensive?

16:23:30 9 THE COURT: Mr. Finn, you probably need to tell her who

16:23:33 10 you represent. If you did, I'm sorry.

16:23:36 11 Q. (BY MR. FINN) Jose Trevino-Morales. Okay, Judge, I should

16:23:41 12 have made that clear.

16:23:42 13 Intensive searches, intensive secondary searches. Do

16:23:45 14 you remember seeing that in the records?

16:23:46 15 A. Yes, sir. That's the reason -- and everyone is subject to a

16:23:52 16 secondary inspection, regardless of whether or not there's an

16:23:54 17 alert.

16:23:54 18 Q. What's an intensive secondary?

16:23:56 19 A. That's what a second -- anything meriting other than a

16:24:01 20 primary inspection is a intensive search.

16:24:03 21 Q. Let me see if I understand how the process works. I'm

16:24:06 22 coming into the United States, I showed my passport and I may be

16:24:12 23 able to go through the, you know, the nine items or less line, go

16:24:16 24 through the express lane, so to speak. On the other hand, I

16:24:19 25 might get pulled aside and you might say, Mr. Finn, we've got

16:24:23 1 some questions for you, correct?

16:24:25 2 A. Yes, sir.

16:24:25 3 Q. We want to go through your pockets and see what you have on

16:24:29 4 your person, right?

16:24:30 5 A. Yes, sir.

16:24:31 6 Q. We might want to go through your cellphone and look at all

16:24:36 7 of your e-mail messages, your photographs, get information from

16:24:40 8 my cellphone, right?

16:24:41 9 A. Yes, sir.

16:24:42 10 Q. And even -- the jury's heard this -- take photographs of

16:24:46 11 what's on my phone, correct? And make copies is what I meant,

16:24:53 12 really.

16:24:54 13 A. I don't -- yeah. We can search all electronics if that's

16:24:59 14 what you're asking. Yes.

16:25:01 15 Q. So my grandparents came here from Ireland, okay, but let's

16:25:04 16 say that they thought the government thought that I was a suspect

16:25:07 17 with the IRA, or that my brothers were suspects with the IRA, and

16:25:11 18 I entered the United States. You all have the ability and the

16:25:16 19 means legally to go through my phone and see if David Finn is

16:25:21 20 calling brother Sean Finn, or Patrick Finn, or -- you can go

16:25:27 21 through and pull up this information to see if there's a

16:25:30 22 connection, right?

16:25:30 23 A. Yes, sir.

16:25:33 24 Q. Y'all do this all the time. It's a standard technique,

16:25:35 25 correct?

16:25:37 1 A. It's at the discretion of the officer.

16:25:40 2 Q. Okay. Well, let's say that my brothers have an \$8 million

16:25:47 3 bounty on their head. They are wanted big-time. Might that be

16:25:51 4 the sort of occasion where someone would want to go through my

16:25:54 5 phone?

16:25:56 6 A. It could be, but again, that's at the discretion -- I don't

16:26:00 7 know what the reason for that secondary inspection was.

16:26:03 8 Q. Might that be a reason that any questioning or interrogation

16:26:07 9 of me at the border might be videotaped?

16:26:13 10 A. It could be, but again.

16:26:16 11 Q. Audio-taped?

16:26:18 12 A. We do not do any types of recordings. Those type of

16:26:23 13 recording for Customs and Border Protection, my agency, we do --

16:26:28 14 okay. My agency that inspected -- the initial agency would not

16:26:34 15 do that; however, if other agencies come in, they would.

16:26:37 16 Q. Okay. So if the FBI, the DEA, the Secret Service said,

16:26:43 17 David Finn's brothers are bad guys and we think Finn's up to no

16:26:47 18 good, we want another agency to do a video recording or an audio

16:26:54 19 recording, that can be done and that is done, correct?

16:26:57 20 A. Again, we do not -- Customs and Border Protection does not

16:27:01 21 do that. The agency would come in and do that themselves there

16:27:04 22 at our secondary inspection and they do it. It's -- they take

16:27:09 23 over their inspection there.

16:27:10 24 Q. Okay. Maybe I'm being obtuse. That's what my wife tells me

16:27:14 25 on a daily basis.

16:27:17 1 I'm coming across the border. The FBI, the DEA, Secret
16:27:22 2 Service, Treasury, IRS, some agency says, we don't like Finn's
16:27:28 3 brothers, we don't like Finn, this is a great opportunity to pull
16:27:32 4 him out of line, interrogate him, then not your agency but
16:27:37 5 another agency could do video-recording of the interview or the
16:27:42 6 questioning, correct?

16:27:44 7 A. Again, they handle their inspection and interview rooms.
16:27:50 8 Unfortunately, I don't know what goes -- because they are now
16:27:53 9 conducting their own inspection, we allow them to use the holding
16:27:57 10 rooms. We would not be involved.

16:27:59 11 Q. Okay. You allow these other agencies to use the holding
16:28:02 12 rooms, right?

16:28:03 13 A. They could use the premises. Yes.

16:28:05 14 Q. And with Jose's, my client's situation, it wasn't just a
16:28:11 15 little knock-knock, let's talk, you know, where are your
16:28:15 16 brothers. We're talking about a detention for 45 minutes to an
16:28:19 17 hour, correct?

16:28:21 18 A. I would have to see the record again. Unfortunately, I
16:28:24 19 don't recall. I ran many records. All I did was just run them
16:28:28 20 and redact them. I didn't -- I'm not certain what it reads.

16:28:32 21 Q. Okay. And if somebody is uncooperative or, in this case, a
16:28:37 22 horse's rear end, that might make it into the report, and it
16:28:41 23 would say the person was combative, abusive, confrontational,
16:28:46 24 something like that, correct?

16:28:48 25 A. It could. Again, the narrative is written by the inspecting

16:28:51 1 officer.

16:28:52 2 Q. And if they think that I'm a sneaky son of a gun and I'm
16:28:56 3 being evasive, that might make it into a report, correct?

16:28:59 4 A. Again, it's at the discretion of the officer who writes up
16:29:02 5 the narrative.

16:29:03 6 Q. So what conclusion, if any, should this jury draw from the
16:29:13 7 fact that there's no mention of my client being sneaky, evasive,
16:29:17 8 deceptive, argumentative, or anything like that? Can they draw
16:29:21 9 any conclusion from the absence of all those records?

16:29:24 10 MR. GARDNER: Your Honor, I'm going to object. The
16:29:26 11 jury can draw their own conclusions. Form of the question.

16:29:29 12 THE COURT: Just redo the question. What the jury is
16:29:36 13 going to infer, one way or the other, is the jury's business, but
16:29:38 14 you can rephrase.

16:29:40 15 MR. FINN: Okay. Fair enough, Judge.

16:29:41 16 Q. (BY MR. FINN) Ma'am, if my client told the agents at the
16:29:45 17 border, I am not proud of my brothers and they have made my life
16:29:50 18 a living hell for the last three years, would that be included in
16:29:55 19 the report?

16:29:56 20 A. Not necessarily. No. The reason for that report is that
16:30:01 21 particular screen is an IOL, and what it is is to record the
16:30:06 22 pat-down more so than anything, the reason for the search.

16:30:09 23 Q. Okay. Ma'am, the government, a moment ago, Mr. Gardner put
16:30:14 24 on the screen a portion of one of these records, and in this
16:30:25 25 report that's now in evidence, it says that officer somebody,

16:30:31 1 it's redacted, which is the fancy way of saying blacked out --

16:30:34 2 officer blacked out, made copies of the driver, Mr. Trevino's

16:30:39 3 pocket trash and faxed the copies per lookout request. Do you

16:30:46 4 remember seeing that?

16:30:46 5 A. Again, I recall having -- I ran a lot of records. But

16:30:52 6 that's what it reads.

16:30:54 7 Q. If my client Jose Trevino-Morales has an inordinate amount

16:30:59 8 of cash on him, would that go in the record?

16:31:01 9 A. If it's a declaration over \$10,000, yes, it would be.

16:31:05 10 Q. So if it's not there, it's not there. Fair?

16:31:08 11 A. Yes.

16:31:10 12 Q. If my client tried to bring a gun, or a knife, or some

16:31:13 13 illegal substance into the country and was caught, dope, drugs,

16:31:19 14 cocaine, marihuana, methamphetamine, would that make it in the

16:31:22 15 record?

16:31:22 16 A. It would be a different report in that system. Yes.

16:31:26 17 Q. Okay. But we would have a record at least?

16:31:27 18 A. Yes, sir.

16:31:28 19 Q. Correct?

16:31:29 20 A. Yes, sir.

16:31:30 21 Q. Now, when it says that my client, Jose Trevino-Morales, was

16:31:36 22 pulled from the express lane and put in a room and questioned,

16:31:40 23 you're not free to just get up and walk out the door, are you? I

16:31:43 24 mean, it's a custodial situation. You're not free to just leave,

16:31:48 25 are you?

16:31:48 1 A. You're detained. Yes.

16:31:50 2 Q. You are detained. And there's not a lawyer present to tell

16:31:52 3 you how to answer the questions, right?

16:31:54 4 A. No, sir.

16:31:57 5 Q. It's agents of the government and the citizen who's being

16:32:02 6 pulled into the room, correct?

16:32:03 7 A. Yes, sir.

16:32:05 8 Q. So when it says that the agents performed an immediate

16:32:09 9 pat-down, an immediate pat-down, does that mean this, immediate

16:32:15 10 pat-down?

16:32:16 11 A. Yes, sir.

16:32:16 12 Q. For officer safety?

16:32:18 13 A. Yes. All persons who are escorted into the secondary area,

16:32:21 14 which is the area -- behind the secure door have to be -- have to

16:32:27 15 go through a pat-down.

16:32:28 16 Q. So when it says officer safety, that doesn't mean that Jose

16:32:31 17 made threats against police, right? You put that in every form

16:32:36 18 where there's a secondary. You say it's for officer safety,

16:32:39 19 correct?

16:32:40 20 A. It's for officer safety. Pat-downs are done for officer

16:32:44 21 safety.

16:32:44 22 Q. My point is that goes into every form of every citizen that

16:32:48 23 gets pulled into the room is going to say in the form that you're

16:32:51 24 doing that for officer safety, correct?

16:32:54 25 A. Yes.

16:32:54 1 Q. It doesn't mean that Jose threatened anyone or that anyone
16:32:58 2 thought that he was a terrorist, right?
16:33:02 3 A. No, sir. I -- no.
16:33:04 4 Q. Okay. Now, there's another entry in another record where
16:33:16 5 Jose was coming back to the country via pedestrian walk. And
16:33:25 6 again, there's a pat-down for officer safety with negative
16:33:30 7 findings and then, subject Trevino was placed and secured in IPT
16:33:39 8 hard secondary. What does that mean?
16:33:42 9 A. That's the immigration processing area, immigration
16:33:46 10 processing team area, which is essentially the same secondary
16:33:49 11 area. Our bridges are not segregating two different areas.
16:33:55 12 Q. So, again, just pulled out of the express lane, he gets put
16:33:59 13 in for second -- hard secondary questioning, and, again, we have
16:34:04 14 negative findings, even though y'all went through his clothes,
16:34:07 15 you went through his books, you went through his phone, and you
16:34:12 16 also found coloring books and crayons and toiletries. Really
16:34:19 17 nothing that's not consistent with somebody that's got two young
16:34:23 18 children, crayons and coloring books. Nothing else, right?
16:34:26 19 A. Right.
16:34:27 20 Q. Did you think that it would be beneficial for this jury to
16:34:41 21 be able to see and hear what my client sounded like and looked
16:34:46 22 like when he's getting pulled into these rooms reentering the
16:34:51 23 country? You think that would be of some benefit to this jury?
16:34:53 24 MR. GARDNER: Your Honor, we object, again, to the form
16:34:55 25 of the question. It's not relevant what --

16:34:57 1 THE COURT: I'll sustain the objection to the question
16:35:02 2 asked.

16:35:05 3 Q. (BY MR. FINN) To the best of your knowledge, there's no
16:35:08 4 videotape of any of these interrogations, is there, to the best
16:35:11 5 of your knowledge?

16:35:12 6 A. I wouldn't know, sir.

16:35:14 7 Q. Fair enough. Thank you. Pass the witness, your Honor.

16:35:19 8 THE COURT: Mr. DeGeurin.

16:35:20 9 MR. DEGEURIN: No questions.

16:35:21 10 THE COURT: Mr. Womack.

16:35:22 11 MR. WOMACK: Thank you.

16:35:23 12 CROSS-EXAMINATION

16:35:23 13 BY MR. WOMACK:

16:35:29 14 Q. Good afternoon, Officer Reyes.

16:35:30 15 A. Hello.

16:35:31 16 Q. Again, what we're talking about is Government's Exhibit 401.
16:35:52 17 And you had border crossing records for a number of different
16:35:57 18 individuals, correct?

16:35:58 19 A. Yes, sir.

16:35:59 20 Q. I'll show you the ones pertaining to Fernando Garcia. And
16:36:17 21 this is the first page of the stack. And it shows that Fernando
16:36:27 22 Garcia came across the border near Roma, Texas and that was on
16:36:34 23 April 3rd of 2006?

16:36:37 24 A. Yes, sir.

16:36:43 25 Q. And he was the only one in the vehicle, correct?

16:36:47 1 A. As documented, yes.

16:36:49 2 Q. I'm sorry?

16:36:49 3 A. As documented on there, yes. Just one. One person.

16:36:53 4 Q. So that means it was him. He was alone?

16:36:55 5 A. Yes.

16:36:56 6 Q. Okay. And the second page said, K-9 and Buster were used

16:37:21 7 during the inspection?

16:37:23 8 A. Yes, sir.

16:37:23 9 Q. What is Buster?

16:37:25 10 A. It's an unobtrusive device used to measure the density of a

16:37:32 11 vehicle or any object.

16:37:35 12 Q. Okay. And so, in addition to looking in the vehicle and

16:37:40 13 searching his person, y'all used both a dog, K-9, and this device

16:37:46 14 called a Buster, and it came back negative results?

16:37:51 15 A. Yes.

16:37:52 16 Q. And negative results means good results, there was nothing

16:37:56 17 illegal at all?

16:37:57 18 A. That's correct.

16:37:58 19 Q. Okay. Mr. Garcia told you -- or when he told the agents

16:38:16 20 that he was coming back from a weekend trip in Miguel Aleman. Do

16:38:20 21 you see that?

16:38:20 22 A. Yes, sir.

16:38:21 23 Q. Now, Miguel Aleman is the Mexican city directly across the

16:38:25 24 bridge from Roma, Texas?

16:38:26 25 A. I believe so. Yes.

16:38:28 1 Q. On April 16th of 2006, Fernando Garcia came across that same
16:38:48 2 location, at Roma?

16:38:51 3 A. Yes, sir.

16:38:51 4 Q. And, again, he was the only person in the car, correct?

16:39:02 5 A. Yes, sir. That's correct. Yes.

16:39:12 6 Q. And this inspection lasted about 14 minutes?

16:39:16 7 A. Yes, sir. That's what the officer entered on the screen.

16:39:25 8 Q. And he showed y'all his identification and the inspection

16:39:32 9 was negative and you also did a -- or they. I say y'all. Border

16:39:39 10 Patrol did a check on NCIS. Tell the jury what NCIS refers to.

16:39:44 11 A. NCIC is a law enforcement database that shows any type of

16:39:50 12 record.

16:39:51 13 Q. I said NCIS. I meant NCIC. NCIC stands for the National

16:39:59 14 Criminal Information Center; is that right?

16:40:02 15 A. Yes, sir.

16:40:03 16 Q. And that's a federal database that law enforcement officers

16:40:07 17 all over the country can access to see if there's any warrants or

16:40:12 18 any kind of information on that individual; is that correct?

16:40:15 19 A. Yes, sir.

16:40:16 20 Q. Now, what is TECS, T-E-C-S?

16:40:19 21 A. I'm not certain of the accuracy of the acronym because we

16:40:23 22 just -- for the most part, we usually use acronyms, but I think

16:40:26 23 it's a Treasury Enforcement Communication System. That's the

16:40:29 24 Customs database.

16:40:30 25 Q. Oh, okay.

16:40:31 1 A. Customs and Border Protection.

16:40:33 2 Q. And, again, everything came back negative for Mr. Garcia?

16:40:36 3 A. Yes, sir. That's correct. That's what it says.

16:40:40 4 Q. Now, both of these were in 2006 that we're looking at so

16:40:49 5 far. I want to show you one, the next one was July 23rd, 2009.

16:40:56 6 Do you see that?

16:40:57 7 A. Yes, sir.

16:40:58 8 Q. And, again, that's Fernando Garcia?

16:41:00 9 A. Yes, sir.

16:41:01 10 Q. And, again, he was alone. Correct?

16:41:09 11 A. Yes, sir.

16:41:12 12 Q. And this was about a 13-minute search.

16:41:18 13 A. Yes, sir.

16:41:20 14 Q. Would you say?

16:41:21 15 A. From 9:15 to 9:28.

16:41:24 16 Q. And so, your document says it was about a 13-minute search?

16:41:28 17 A. That's what the officer entered. Yes.

16:41:33 18 Q. And here, he was checked, he was actually selected for

16:41:37 19 A-TCET outbound inspection; is that right?

16:41:40 20 A. Yes, sir.

16:41:41 21 Q. Tell us what that is. What is an A-TCET outbound

16:41:49 22 inspection?

16:41:50 23 A. That's also an acronym for a group that -- what they do are

16:41:57 24 also intensive inspections. They randomly select people.

16:42:01 25 Q. Okay.

16:42:02 1 A. For inspection. Further inspections. That's all they do
16:42:05 2 all day.

16:42:06 3 Q. And they asked him, among other things, if he was carrying
16:42:09 4 money in excess of \$10,000?

16:42:10 5 A. That's correct.

16:42:11 6 Q. And he said, no, I was not, correct?

16:42:14 7 A. Yes, sir.

16:42:16 8 Q. They asked him if he was carrying ammunition, guns, or
16:42:20 9 exporting any kind of commercial goods, correct?

16:42:22 10 A. Yes, sir.

16:42:23 11 Q. And he said, no, I'm not doing any of that?

16:42:26 12 A. That's correct. Yes.

16:42:27 13 Q. And the search confirmed that?

16:42:31 14 A. Yes, sir.

16:42:38 15 Q. And the last one we have for Mr. Garcia is August 5th of
16:42:49 16 2009, and this is at the Hidalgo International Bridge?

16:42:54 17 A. Yes, sir.

16:42:58 18 Q. Is that in the town of Hidalgo, Texas or do you know?

16:43:01 19 A. Yes, sir.

16:43:01 20 Q. Okay. And, again, Mr. Garcia was by himself, correct?

16:43:15 21 A. Yes.

16:43:16 22 Q. And this search in the afternoon lasted about 15 minutes?

16:43:19 23 A. Yes, sir.

16:43:23 24 Q. And, again, he had been selected for this A-TCET outbound
16:43:31 25 inspection, correct?

16:43:32 1 A. Yes, sir.

16:43:32 2 Q. And he denied carrying excessive cash, guns, ammunition, or

16:43:38 3 any kind of commercial goods, correct?

16:43:41 4 A. Yes, sir.

16:43:43 5 Q. And the inspection confirmed that?

16:43:46 6 A. Yes. He was inspected. Yes.

16:43:58 7 Q. Your Honor, I have no further question.

16:44:02 8 THE COURT: Mr. Esper.

16:44:04 9 MR. ESPER: Yes, your Honor.

16:44:05 10 CROSS-EXAMINATION

16:44:05 11 BY MR. ESPER:

16:44:12 12 Q. Ms. Reyes, these queries that you ran for border crossings,

16:44:20 13 that covered every port-of-entry in the state of Texas?

16:44:24 14 A. Yes, sir.

16:44:25 15 Q. And do you know how many different ports-of-entry there are

16:44:28 16 in the state?

16:44:30 17 A. I'm not certain, no. Exactly, no.

16:44:32 18 Q. Okay. Certainly there's El Paso?

16:44:34 19 A. Oh, yeah.

16:44:35 20 Q. Eagle Pass?

16:44:35 21 A. Eagle Pass, Del Rio, Hidalgo, Roma, Laredo. Laredo has

16:44:39 22 four. I mean, each city might have several bridges. Laredo has

16:44:43 23 four bridges.

16:44:44 24 Q. And some bridges have a lot more traffic than other bridges,

16:44:47 25 correct?

16:44:48 1 A. Yes, sir.

16:44:48 2 Q. These are the query that was made concerning the border

16:44:58 3 crossings of Eusevio Maldonado-Huitron, correct?

16:45:04 4 A. Yes, sir.

16:45:04 5 Q. And I believe -- could you tell the ladies and gentlemen how

16:45:27 6 many crossings there were in 2009 for Mr. Huitron?

16:45:37 7 A. In 2009 only?

16:45:39 8 Q. Yes.

16:45:40 9 A. There's one here for 11-30.

16:45:43 10 Q. November 30th?

16:45:54 11 A. That's it. In this stack, that's all.

16:46:09 12 Q. I'm sorry, for 2009 there was just one?

16:46:11 13 A. In this stack, yes. Here. Yes.

16:46:15 14 Q. Are there others that I'm missing? So there's one in 2009

16:46:32 15 on November 30th?

16:46:34 16 A. November 30th, 2009. Yes.

16:46:36 17 Q. Okay. And that particular -- was that -- where does that

16:46:40 18 occur, do you know?

16:46:41 19 A. This one, it was in Eagle Pass, Texas.

16:46:43 20 Q. And was he referred to secondary?

16:46:45 21 A. This car was referred to secondary. Yes.

16:46:47 22 Q. Okay. And the secondary inspection lasted, what, about

16:46:49 23 eight minutes?

16:46:50 24 A. From 19:27 to 19:35.

16:46:54 25 Q. Okay. And there's a number of reasons -- well, law

16:46:59 1 enforcement doesn't have to have a reason when you come into the
16:47:02 2 United States to look in your vehicle, search your person, et
16:47:05 3 cetera, do they?

16:47:05 4 A. No.

16:47:06 5 Q. Okay. And, of course, not only are -- when you come to a
16:47:10 6 port-of-entry to primary inspection, the officer will ask, are
16:47:15 7 you bringing anything into the United States, correct?

16:47:17 8 A. Yes, sir.

16:47:18 9 Q. Money, contraband, liquor, cigarettes, all of that, correct?

16:47:23 10 A. Yes.

16:47:24 11 Q. And if a person gives a no declaration, sometimes they wave
16:47:29 12 them through, sometimes they can refer them to secondary without
16:47:32 13 even having a reason, correct?

16:47:34 14 A. Sure.

16:47:35 15 Q. And at some ports-of-entries, they have canines who are
16:47:38 16 doing advance searches or sniff searches of vehicles before they
16:47:42 17 even come to the booth, correct?

16:47:45 18 A. Yes, sir.

16:47:45 19 Q. And if that dog alerts, that's going to send them over to
16:47:49 20 secondary?

16:47:49 21 A. Yes.

16:47:49 22 Q. Okay. Now, this vehicle on November 30, 2009 Mr. Huitron
16:47:54 23 was in, and you don't know whether that occurred at Thanksgiving
16:47:59 24 in 2009, do you?

16:48:01 25 A. No, sir.

16:48:02 1 Q. Okay. Now, let's talk about 2010. How many crossings were
16:48:08 2 there?

16:48:09 3 A. There was one on December 24th.

16:48:12 4 Q. Okay.

16:48:13 5 A. 2010.

16:48:14 6 Q. 2010. And he was not referred to secondary?

16:48:20 7 A. There's a crossing. No. I don't know.

16:48:23 8 Q. But it's December 24th, which is Christmas Eve, correct?

16:48:27 9 A. Right.

16:48:27 10 Q. Now, 2011, there's a total of five, is there not?

16:48:31 11 A. There was one on March 10th, April 11th, June 30th and July

16:48:40 12 28th and December 30th. I'm sorry, that's 2011. Yeah.

16:48:59 13 Q. Okay. So the first one is March the 10th of 2011, correct?

16:49:05 14 A. Yes.

16:49:06 15 Q. And all the rest are subsequent to March of 2011, correct?

16:49:12 16 A. Yes, sir.

16:49:19 17 Q. Now, whenever a person is referred to secondary, are they
16:49:24 18 usually allowed to sit on the benches, or are they sometimes
16:49:28 19 taken to a station house?

16:49:29 20 A. It could be either or depending on the officer's discretion
16:49:34 21 on whatever type of inspection is going on.

16:49:36 22 Q. Would it reflect on that particular document or not?

16:49:39 23 A. On the crossings on these particular crossings?

16:49:44 24 Q. Yes?

16:49:44 25 A. No. It does not say that.

16:49:45 1 Q. And sometimes when they're taken on the bench, they're just
16:49:47 2 told to sit there. And sometimes when they're taken to a station
16:49:51 3 house, they're told to sit on a bench, correct?
16:49:53 4 A. Yes. You could wait outside. Or you could wait in the
16:49:56 5 office before the secure door. It could be after the secure
16:49:59 6 door.
16:49:59 7 Q. Sometimes if you even go to the office, sometimes they even
16:50:02 8 handcuff you to a chair?
16:50:03 9 A. If it's behind the secure door, yes. You are secured.
16:50:06 10 Q. Okay. But that record, again, would not indicate whether
16:50:10 11 that happened?
16:50:10 12 A. This particular screen is just his crossing. This is just a
16:50:15 13 crossing to start with. There's different screens for different
16:50:17 14 documentation.
16:50:18 15 Q. They're also looking for currency, are they not?
16:50:20 16 A. For incoming currency, yes.
16:50:22 17 Q. That's not reported?
16:50:23 18 A. Yes.
16:50:24 19 Q. Okay. It's not a crime to bring currency in so long as you
16:50:28 20 fill out the form?
16:50:29 21 A. So long as you declare over \$10,000.
16:50:30 22 Q. And is there a point where you have -- I mean, do you have
16:50:34 23 to have that form already filled out when you get to the
16:50:37 24 inspection booth?
16:50:37 25 A. So long as you declare it to the primary inspection, you can

16:50:40 1 fill it out at the secondary area. Or if you've already got it
16:50:43 2 filled out, you just hand it to the primary inspector or
16:50:47 3 secondary officer. Probably have to declare it to a secondary
16:50:50 4 officer.

16:50:51 5 Q. If there was a declaration made about money coming in, would
16:50:54 6 it be reflected on that query?

16:50:56 7 A. Not on this particular screen. This is just a crossing
16:51:02 8 again.

16:51:02 9 Q. Okay. Your Honor, I would move for the exhibit --
16:51:16 10 demonstrative Exhibit EH-3 as a demonstrative exhibit, your
16:51:20 11 Honor.

16:51:20 12 MR. GARDNER: No objection, your Honor.

16:51:23 13 MR. ESPER: With that, I have no further question.

16:51:25 14 THE COURT: Received as demonstrative. EH-3.

16:51:35 15 Mr. Mayr.

16:51:37 16 MR. MAYR: Thank you, Judge.

16:51:38 17 CROSS-EXAMINATION

16:51:38 18 BY MR. MAYR:

16:51:52 19 Q. Good afternoon.

16:51:53 20 A. Hello.

16:51:53 21 Q. I'm going to make this really easy for you.

16:51:56 22 Your Honor, the government and I have -- we have
16:51:58 23 reached an agreement to stipulate that none of these records
16:52:01 24 contain any border crossing records that pertain to my client,
16:52:04 25 Jesus Huitron. Is that acceptable?

16:52:06 1 MR. GARDNER: That's acceptable, your Honor.

16:52:07 2 THE COURT: Okay.

16:52:09 3 MR. MAYR: And I have nothing further. Thank you,

16:52:11 4 ma'am.

16:52:11 5 THE COURT: Any redirect?

16:52:13 6 MR. GARDNER: No, your Honor. May this witness be

16:52:14 7 excused?

16:52:15 8 MR. FINN: Your Honor, if I may approach, Judge, I just

16:52:17 9 realized I forgot to ask a couple of questions. Two or three.

16:52:20 10 THE COURT: Okay.

16:52:21 11 RE-CROSS EXAMINATION

16:52:21 12 BY MR. FINN:

16:52:23 13 Q. Ma'am, is it safe to say that when my client came -- well,

16:52:29 14 these records really just prove that my client Jose

16:52:33 15 Trevino-Morales, a U.S. citizen with no criminal history, visited

16:52:37 16 in Mexico and came back to the U.S.

16:52:39 17 A. That's correct.

16:52:40 18 Q. Is it unusual if somebody is born in another country, let's

16:52:44 19 say Mexico, for them to go back to the home country, for example,

16:52:48 20 to visit their 70-year-old ailing mother? Is there anything

16:52:52 21 unusual about that?

16:52:54 22 A. No, sir.

16:52:55 23 Q. Is there anything sinister about that?

16:52:58 24 A. No, sir.

16:52:59 25 Q. And when these folks are handcuffed to a chair coming into

16:53:03 1 the country and grilled about their brother's activity, they're
16:53:07 2 not given Miranda warnings, are they?

16:53:11 3 A. No, sir. They're not under arrest.

16:53:12 4 Q. And Miranda means you've got the right to an attorney,
16:53:16 5 you've got the right to keep your mouth shut, et cetera, et
16:53:18 6 cetera, that the jury's familiar with. So they're not even
16:53:21 7 warned when they're interrogated, right?

16:53:23 8 A. They're not arrested, no.

16:53:24 9 Q. They're not arrested, but they're in custody, handcuffed to
16:53:28 10 a chair?

16:53:28 11 A. They're detained. Yes.

16:53:30 12 Q. They're detained?

16:53:31 13 A. Yes.

16:53:31 14 Q. With the handcuff to the chair?

16:53:33 15 A. Yes.

16:53:33 16 Q. Thank you. That's all.

16:53:36 17 MR. GARDNER: No, your Honor. Thank you.

16:53:37 18 THE COURT: You may be excused.

16:53:45 19 Okay. Members of the jury, I intend to go to 6:00.

16:53:47 20 Does anybody need a little short break? Call your next witness.

16:53:53 21 MS. FERNALD: Government would call Brian Schutt.

16:54:09 22 MR. FINN: Judge, could I approach real quick?

16:54:21 23 THE COURT: Sure.

16:54:21 24 (At the bench, off the record.)

16:54:21 25 THE COURT: All right. Let's make it ten minutes.

16:54:56 1 (Jury not present.)

16:55:03 2 THE COURT: Ten-minute recess.

17:05:01 3 (Recess.)

17:05:28 4 (Jury present.)

17:06:31 5 THE COURT: You may swear the witness.

17:06:33 6 (Witness sworn.)

17:06:51 7 THE COURT: If you'll tell us your full name, please,

17:06:56 8 sir, and spell your last.

17:06:57 9 THE WITNESS: Brian Schutt, S-C-H-U-T-T.

17:07:02 10 BRIAN SCHUTT, called by the Government, duly sworn.

17:07:02 11 DIRECT EXAMINATION

17:07:03 12 BY MS. FERNALD:

17:07:03 13 Q. And can you tell the ladies and gentlemen of the jury what

17:07:05 14 you do for a living?

17:07:06 15 A. I'm an Irving Police officer.

17:07:07 16 Q. How long have you been an Irving Police Department --

17:07:10 17 officer?

17:07:11 18 A. Over 27 years.

17:07:13 19 Q. And through the course of the 27 years, have you been

17:07:16 20 assigned to a task force?

17:07:18 21 A. Yes, I have.

17:07:18 22 Q. And what period of time have you been assigned to this task

17:07:22 23 force?

17:07:22 24 A. Since 1998, all the way through now.

17:07:25 25 Q. Can you tell the ladies and gentlemen of the jury just what

17:07:27 1 a task force is?

17:07:29 2 A. A task force is a group of agencies that get together,

17:07:32 3 federal, could be state and local. We work cases together

17:07:37 4 because we have different investigations where we're working, and

17:07:40 5 we can bring all these investigations together and work it.

17:07:44 6 Q. And what is the name of the task force in which you're

17:07:47 7 employed?

17:07:48 8 A. Waco Treasury Task Force.

17:07:50 9 Q. And with the Waco Treasury Task Force, you work with the

17:07:55 10 IRS?

17:07:55 11 A. Yes, I do.

17:07:56 12 Q. How long have you worked with Steve Pennington?

17:07:58 13 A. Since 1998.

17:08:01 14 Q. Were you involved in the investigation of this particular

17:08:05 15 case?

17:08:05 16 A. Yes, I am.

17:08:06 17 Q. When did you start working on this case?

17:08:08 18 A. Over two years ago.

17:08:11 19 Q. In the course of your work, do you know if there were any

17:08:15 20 search warrants that were executed?

17:08:17 21 A. Yes.

17:08:17 22 Q. Tell me how many search warrants were executed.

17:08:19 23 A. Seven.

17:08:22 24 Q. Seven search warrants or seven locations?

17:08:24 25 A. Seven locations.

17:08:29 1 Q. And do you know whether or not any subpoenas were issued?

17:08:32 2 A. Yes.

17:08:33 3 Q. How many subpoena requests were done in this particular

17:08:36 4 case?

17:08:36 5 A. Approximately 200.

17:08:42 6 Q. Can you tell the ladies and gentlemen of the jury what you

17:08:45 7 were tasked to do in your role for the jury trial?

17:08:51 8 A. My major task was to try to follow the horses from when they

17:08:54 9 were purchased through the races, the stables, where they're

17:09:03 10 stabled at, AQHA records, who's the owners. Anything to do with

17:09:10 11 the race horse itself.

17:09:14 12 Q. And as you see these boxes that are lined up against the

17:09:18 13 jury box and lined up against these walls, did you go through all

17:09:21 14 these boxes?

17:09:21 15 A. Yes.

17:09:22 16 Q. So did you go through subpoena material and the search

17:09:26 17 warrant material in order to determine about the horses, where

17:09:31 18 they came from, who paid for them, other things?

17:09:34 19 A. Yes.

17:09:41 20 Q. Did you work on this by yourself?

17:09:43 21 A. No.

17:09:44 22 Q. Who did you work with?

17:09:45 23 A. Kim Williams.

17:09:46 24 Q. And is she sitting back in the courtroom right now in the

17:09:49 25 black suit and the red shirt?

17:09:51 1 A. Yes.

17:09:52 2 Q. How many hours did you spend going through these different

17:09:55 3 boxes with Investigator Williams?

17:09:59 4 A. Thousands.

17:10:01 5 Q. And were you also asked to put together a presentation for

17:10:06 6 this jury in order to track the ownership, the paying of the

17:10:10 7 bills, the boarding, the race earnings, the vet fees, and the

17:10:13 8 insurance of these particular horses?

17:10:15 9 A. Yes.

17:10:21 10 Q. Because of the voluminous nature of all of these documents,

17:10:25 11 were you asked to narrow the scope of your investigation to

17:10:28 12 particularly this?

17:10:29 13 A. Yes.

17:10:30 14 Q. Can you tell the ladies and gentlemen of the jury, after the

17:10:40 15 search warrants were conducted, how these pieces of evidence were

17:10:45 16 actually cataloged back at the office?

17:10:49 17 A. Yes.

17:10:50 18 Q. Please tell them.

17:10:52 19 A. Once the -- example was we had boxes coming in from

17:10:57 20 Lexington for seized evidence. We would go through that box. If

17:11:03 21 we took evidence out of it, we would color-code a file, and then,

17:11:06 22 we put that box number on the cover of that file so that we knew

17:11:11 23 this is the evidence that came out of this box.

17:11:14 24 Q. All right. So if, for example, if you're in Lexington, you

17:11:21 25 know that those particular files were colored in orange; is that

17:11:26 1 correct?

17:11:26 2 A. Yes.

17:11:28 3 Q. Okay. And so, you would take the document and you would

17:11:31 4 place it in the orange file folder?

17:11:33 5 A. Yes.

17:11:34 6 Q. And then, after it was placed in the orange file folder, how

17:11:37 7 would it be labeled?

17:11:38 8 A. We would mark the box number, which is a B number, and the

17:11:43 9 box number itself.

17:11:45 10 Q. And was this done with all the locations in this particular

17:11:48 11 case?

17:11:48 12 A. Yes.

17:11:49 13 Q. And why was that done? What was the purpose of that?

17:11:52 14 A. So we knew where the evidence came from.

17:11:57 15 Q. And did you track all of these documents with certain B

17:12:00 16 numbers?

17:12:01 17 A. Yes.

17:12:02 18 Q. Okay. Can you tell the jury about that?

17:12:05 19 A. The B numbers is just the box itself, and the number behind

17:12:11 20 it, the FBI numbers it that way for their evidence as far as

17:12:15 21 logging it in.

17:12:16 22 Q. And back to the horses of this particular case, did you look

17:12:22 23 at every single horse in this particular case?

17:12:25 24 A. Yes.

17:12:26 25 Q. How many horses did you look at?

17:12:28 1 A. Over 500.

17:12:31 2 Q. Were there some horses that you were unable to actually

17:12:35 3 track?

17:12:36 4 A. Yes.

17:12:36 5 Q. And why is that?

17:12:38 6 A. If they're -- sometimes they're sold in private sales, there

17:12:41 7 is no record of that sale happening because it's a private sale.

17:12:46 8 So we don't have records for that.

17:12:50 9 Q. In reference to AQHA, what were you looking for on those

17:12:58 10 particular records?

17:13:00 11 A. Those records will actually show us the ownership as far as

17:13:05 12 how it goes through timeline. It also shows leases and transfer

17:13:12 13 of horses, also.

17:13:14 14 Q. What about the sales barns in this particular case?

17:13:18 15 A. We subpoenaed several sales barns.

17:13:21 16 Q. Can you tell the ladies and gentlemen of the jury the name

17:13:23 17 of the sales barns that we subpoenaed in this case?

17:13:25 18 A. Ruidoso, Heritage Place, Los Alamitos, Eclipse sale and

17:13:33 19 Schvaneveldt sales.

17:13:34 20 Q. There was also -- was there a Lazy E?

17:13:37 21 A. That's not a sale barn. That's a private ranch.

17:13:40 22 Q. All right. Other sales documents that you also obtained

17:13:43 23 through this, correct?

17:13:46 24 A. Yes.

17:13:47 25 Q. What about horsemen's accounts? Can you tell the ladies and

17:13:51 1 gentlemen of the jury a little bit about what a horsemen's
17:13:52 2 account is?

17:13:54 3 A. Each state has rules for a horsemen's account. Basically
17:13:59 4 it's a checking account. An example, in Los Alamitos, that race
17:14:02 5 track in California, you have an account there, if you have
17:14:06 6 horses and you can put money into this account to pay expenses
17:14:11 7 for those horses. If they win, the race track will put money
17:14:17 8 into your account. So you draw on it just like a checking
17:14:20 9 account.

17:14:21 10 Q. And does it differ from state to state on whether or not the
17:14:25 11 horsemen's account is localized?

17:14:27 12 A. Yes.

17:14:28 13 Q. And can you -- that sounded like a weird question. Can you
17:14:31 14 explain to the jury what I mean by that?

17:14:33 15 A. In Texas, there's one local account that's for all the race
17:14:39 16 tracks. And California, there's an account for every race track.

17:14:50 17 Q. Did you also become familiar with the different entities for
17:14:55 18 businesses associated with this conspiracy?

17:14:59 19 A. Yes.

17:15:00 20 Q. Are you familiar with Tremor Enterprises?

17:15:03 21 A. Yes.

17:15:03 22 Q. And are you familiar who that is associated with?

17:15:06 23 A. Jose Trevino.

17:15:07 24 Q. What about ADT Petro Servicios?

17:15:10 25 A. Francisco Colorado-Cessa.

17:15:17 1 Q. I'm showing you now what has been marked as Government's
17:15:28 2 Exhibit, is that 325?

17:15:29 3 A. 325.

17:15:29 4 Q. Thank you. 325. Do you recognize this?

17:15:32 5 A. Yes.

17:15:32 6 Q. Have I asked for you to look at it before?

17:15:35 7 A. Yes.

17:15:35 8 Q. And what is this?

17:15:38 9 A. This is a chart with four people listed with their companies
17:15:44 10 that they're involved with.

17:15:45 11 Q. Okay. Are they necessarily owners of these companies?

17:15:48 12 A. No.

17:15:49 13 Q. But they're involved with the companies?

17:15:51 14 A. Yes.

17:15:52 15 Q. Would this particular piece of evidence help you explain
17:15:56 16 your testimony to the jury today?

17:15:59 17 A. Yes, it would.

17:16:00 18 Q. Move for the introduction of Government's Exhibit 325 for
17:16:11 19 demonstrative purposes.

17:16:12 20 THE COURT: Let's don't show it to the jury.

17:16:14 21 MS. FERNALD: Sure.

17:17:09 22 MR. DEGEURIN: May I make an objection at the bench,
17:17:12 23 your Honor?

17:17:12 24 THE COURT: Well, sure.

17:17:19 25 (At the bench, on the record.)

17:17:29 1 MR. DEGEURIN: I object to the exhibit because the
17:17:36 2 photograph they have of Mr. Colorado is a booking photograph, and
17:17:43 3 it's -- my opinion, it displays him in a very poor light. The
17:17:49 4 rest of them -- and the other ones --

17:17:52 5 THE COURT: Is there any other objections? I have one.

17:17:52 6 MS. FERNALD: What's that?

17:17:59 7 THE COURT: On the right hand of the board, you've got
17:18:01 8 written there two words, it looks like. I want -- I need for you
17:18:15 9 to tape over, or do something, the right hand up where you've got
17:18:20 10 the related --

17:18:22 11 MR. MAYR: Involved entity, I think it says.

17:18:24 12 MS. FERNALD: Okay.

17:18:25 13 THE COURT: Other than that, it's admissible and you'll
17:18:30 14 just cover that up.

17:18:33 15 MS. FERNALD: Okay.

17:19:10 16 Q. (BY MS. FERNALD) I'm showing you now what has been marked as
17:19:13 17 Government's Exhibit 310A, 311A and 312A. Do you recognize these
17:19:21 18 documents?

17:19:23 19 A. Yes.

17:19:23 20 Q. What do you recognize these documents to be?

17:19:25 21 A. These are illustrations of information that I put together
17:19:31 22 to show the ownership of horses. Of certain horses. The race
17:19:38 23 payment, training bill, veterinary bill, insurance fees, along
17:19:43 24 with some type of ownership of these horses.

17:19:48 25 Q. And will these particular exhibits help you in summarizing

17:19:53 1 your evidence for the jury in illustrating it?

17:19:56 2 A. Yes, it will.

17:19:58 3 Q. Move for the introduction of these Government's Exhibit

17:20:03 4 310A, 311A and 312A for demonstrative purposes only, your Honor.

17:20:16 5 THE COURT: Have counsel seen these?

17:20:19 6 MS. FERNALD: They have been e-mailed to them over the
17:20:21 7 weekend, your Honor.

17:20:48 8 MS. WILLIAMS: Your Honor, Judge, we did get these
17:20:50 9 yesterday morning, but the words are real --

17:20:54 10 MR. DEGEURIN: We can't see it. In the form it came to
17:20:57 11 us, you cannot see it -- at least I couldn't see it on my
17:21:00 12 computer.

17:21:00 13 THE COURT: Okay.

17:21:01 14 MR. DEGEURIN: Still having a hard time.

17:21:03 15 THE COURT: Well, look at it.

17:22:19 16 MR. DEGEURIN: I object. It's just for demonstratives
17:22:23 17 purposes? Is that --

17:22:24 18 THE COURT: That's all it's offered.

17:22:26 19 MS. FERNALD: That's correct.

17:22:27 20 MR. DEGEURIN: All right. I have no objection.

17:22:29 21 THE COURT: 310A, 311A, 312A are admitted for
17:22:36 22 demonstrative purposes.

17:22:37 23 Again, members of the jury, let me remind you that
17:22:39 24 means that all of the lawyers can use it in front of you, but
17:22:43 25 it's not evidence itself that should go back to you. But a good

1 way to look at it is in my day, whatever you would write on the
2 blackboard would be demonstrative evidence. Now they've got all
3 these computers.

17:22:59 4 All right. You may proceed.

17:23:00 5 Q. (BY MS. FERNALD) Thank you.

17:23:02 6 And finally, I'm showing you right in front of you, the
17:23:05 7 notebooks. I'm sorry, Government's Exhibit 310, 311 and 312. Do
17:23:12 8 you recognize these notebooks?

17:23:13 9 A. Yes.

17:23:13 10 Q. What do you recognize these notebooks to be?

17:23:17 11 A. These are the documents pertaining to each horse, and we
17:23:21 12 pulled these documents out of the evidence and subpoenas.

17:23:25 13 Q. And when you say each horse, how many horses did you do in
17:23:28 14 preparation of your testimony today?

17:23:30 15 A. For today, it's these three horses.

17:23:33 16 Q. Okay. There's three horses for those, correct?

17:23:35 17 A. Yes.

17:23:36 18 Q. All right. And are these duplicate copies contained with --
17:23:41 19 that are contained in those boxes that have previously been
17:23:44 20 admitted?

17:23:45 21 A. Yes.

17:23:45 22 Q. And do you have the little exhibit stickers on each one of
17:23:49 23 these that pertains to that piece of evidence?

17:23:52 24 A. Yes.

17:23:52 25 Q. And do you also have the Bates stamp number on them?

17:23:55 1 A. Yes.

17:23:56 2 Q. Okay. And Government's Exhibit 310 is a notebook. Will it

17:24:02 3 correspond with the presentation that's going to be exhibited in

17:24:06 4 Government's Exhibit 310A?

17:24:08 5 A. Yes.

17:24:09 6 Q. All right. Government's Exhibit 310 is which horse?

17:24:13 7 A. Fly First Down.

17:24:14 8 Q. Government's Exhibit 311 is which horse?

17:24:19 9 A. Blues Girl Choice.

17:24:20 10 Q. And Government's Exhibit 312, which horse is that?

17:24:23 11 A. Blues Ferrari.

17:24:25 12 Q. Move for the introduction of Government's Exhibit 310, 311

17:24:29 13 and 312.

17:24:35 14 MR. DEGEURIN: I'm sorry. Is that the same one we just

17:24:37 15 looked at?

17:24:38 16 MS. FERNALD: It is. It is the documents that have

17:24:40 17 already -- they're duplicate documents that the jury can take

17:24:44 18 back with them to look at these particular horses as it relates

17:24:47 19 with the presentation.

17:25:00 20 MR. DEGEURIN: This may take a little while, your

17:25:02 21 Honor.

17:25:06 22 THE COURT: Well, if they're already in evidence, but

17:25:07 23 go ahead and examine them.

17:25:09 24 MR. DEGEURIN: Well, these are not in -- well, they're

17:25:12 25 in huge boxes.

17:25:14 1 THE COURT: Yeah. They're in -- okay.

17:25:19 2 MR. DEGEURIN: Needle in a haystack is what I --

17:25:22 3 MS. FERNALD: Yes.

17:25:23 4 THE COURT: Counsel, on 310, 311 and 312, we can let

17:25:44 5 the lawyers look at them after 5:00. Can you proceed with

17:25:48 6 testimony until 5:00?

17:25:51 7 MS. FERNALD: Yes, I can, your Honor.

17:25:53 8 THE COURT: Then proceed.

17:25:54 9 MS. FERNALD: Yes, your Honor.

17:26:05 10 THE COURT: When I said 5:00, I really meant 6:00.

17:26:07 11 MS. FERNALD: I understand.

17:26:09 12 THE COURT: 5:00 mountain time.

17:26:15 13 Q. (BY MS. FERNALD) Can you pull up Government's Exhibit 310A,

17:26:20 14 please?

17:26:24 15 As you looked through the boxes on these particular

17:26:27 16 horses, we're going to do Fly First Down is going to be the first

17:26:30 17 horse that we did. Did you include every single document that

17:26:33 18 pertained to Fly First Down?

17:26:35 19 A. No.

17:26:36 20 Q. Why not?

17:26:38 21 A. Because some of the documents were duplicates and some of

17:26:44 22 them do not relate to an expense, or race payment, or ownership

17:26:50 23 records. They just had no relevance.

17:26:56 24 Q. Can you just go ahead and show the entire document?

17:27:05 25 The name of the horse I'm looking at at the top

17:27:08 1 left-hand corner is Fly First Down, correct?

17:27:11 2 A. That is correct.

17:27:12 3 Q. And then, underneath that, I see that there are some box --

17:27:18 4 if you can kind of zoom into that, please. It says, timeline of

17:27:26 5 payment of ownership underneath Fly First Down, correct?

17:27:31 6 A. That is correct.

17:27:32 7 Q. And there's also a box here that has the catalog or the

17:27:36 8 index for this particular diagram; is that right?

17:27:39 9 A. That's correct.

17:27:40 10 Q. Can you tell us about the different color-coding that is

17:27:43 11 done on these? Are these randomly assigned?

17:27:45 12 A. Yes.

17:27:45 13 Q. And what was the purpose of the colors being used in this?

17:27:50 14 A. The colors just make it easier to follow the evidence per

17:27:54 15 person. So we just color-coordinated each person that the

17:27:59 16 document is associated with, so if somebody sees it, they'll go,

17:28:03 17 okay, this relates to this person.

17:28:06 18 Q. And very randomly assigned, just like the search warrant

17:28:13 19 evidence, correct?

17:28:14 20 A. That's correct.

17:28:14 21 Q. All right. And then, there's a line on the bottom.

17:28:17 22 Obviously, is this the timeline on this particular demonstrative

17:28:20 23 aid?

17:28:21 24 A. Yes.

17:28:23 25 Q. And there's also some line going up and down?

17:28:27 1 A. Yes.

17:28:27 2 Q. Going vertical. What do those lines represent?

17:28:31 3 A. Those will be dates for times of ownership.

17:28:36 4 Q. And on the claims of ownership, we'll also see, later on,

17:28:39 5 some lines that are going to go crossways or horizontal. What

17:28:45 6 are those lines going to represent?

17:28:46 7 A. Those represent expenses or income.

17:28:50 8 Q. If you go up another category, there's going to be expenses

17:28:53 9 or income. You go up another line, what is there going to be

17:28:56 10 there?

17:28:57 11 A. There will be stable fees, race entries.

17:29:03 12 Q. Veterinary fees and, also, insurance will be another

17:29:05 13 category; is that correct?

17:29:06 14 A. Yes.

17:29:07 15 Q. All right. Let's take the first entry that is contained on

17:29:11 16 310A. What is the first entry that you have on it?

17:29:18 17 A. This is September 3rd, 2010, Fly First Down was sold at

17:29:23 18 Ruidoso sales for \$300,000.

17:29:28 19 Q. And what was the date on that?

17:29:30 20 A. September 3rd, 2010.

17:29:33 21 Q. All right. And I see aside from that is a document that was

17:29:38 22 associated with that. What is that document?

17:29:41 23 A. That is the sale record.

17:29:42 24 Q. All right. And you have highlighted that particular

17:29:46 25 document, have you not?

17:29:47 1 A. Yes.

17:29:48 2 Q. Can you enlarge that a little bit? Is this the record that

17:29:54 3 supports your entry on the first line?

17:29:57 4 A. Yes.

17:30:01 5 Q. And is that contained in the notebook of 310, this

17:30:04 6 particular document?

17:30:05 7 A. Yes.

17:30:10 8 Q. If you'll go back out, please. Can you go to the next claim

17:30:15 9 of ownership? Can you tell us about that?

17:30:21 10 A. The owner is noted as -- it's going to be Raul Ramirez and

17:30:28 11 this is a race entry for Pacific Coast.

17:30:34 12 Q. Okay. What date was it made?

17:30:37 13 A. September 16th, 2010.

17:30:39 14 Q. And where did you get this particular document in order to

17:30:43 15 prove this point?

17:30:43 16 A. This is a subpoenaed document.

17:30:45 17 Q. From Pacific Coast?

17:30:47 18 A. Yes.

17:30:48 19 Q. And what is the exhibit contained on this particular

17:30:51 20 document?

17:30:51 21 A. 228.

17:30:55 22 Q. Next entry. The next claim of ownership comes from a

17:31:01 23 photograph; is that correct?

17:31:02 24 A. Yes.

17:31:03 25 Q. Tell me about this photograph and the claim of ownership on

17:31:06 1 it.

17:31:07 2 A. This is a race photo and the owner is Francisco

17:31:15 3 Colorado-Cessa.

17:31:20 4 Q. When was this photo taken?

17:31:22 5 A. May 27, 2011.

17:31:26 6 Q. Were you involved with the arrest and the seizure warrants

17:31:29 7 of this particular case?

17:31:30 8 A. Yes.

17:31:31 9 Q. Do you know what the status of Fly First Down is?

17:31:35 10 A. It's deceased.

17:31:40 11 Q. Go to the next entry, please. What is the next entry that

17:31:52 12 you see in this voluminous amount of documents in reference to

17:31:55 13 Fly First Down?

17:31:55 14 A. The next record is June 5, 2011, where it's a transfer fee

17:32:04 15 to AQHA to change the names of ownership.

17:32:11 16 Q. I think we jumped ahead of you. We went all the way to the

17:32:14 17 next entry, which was in June, on June the 7th of 2011. What is

17:32:24 18 that?

17:32:29 19 A. That is a check for the purchase of Fly First Down from

17:32:34 20 Tremor Enterprises to Francisco Colorado.

17:32:37 21 Q. What is significant about this check?

17:32:39 22 A. This check was never negotiated with the bank.

17:32:42 23 Q. Where was this check found?

17:32:45 24 A. It was found in Lexington, Oklahoma.

17:32:48 25 Q. Pursuant to what?

17:32:50 1 A. I couldn't hear you.

17:32:52 2 Q. Pursuant to a search warrant?

17:32:53 3 A. Yes.

17:32:56 4 Q. And what was the status of this check?

17:33:01 5 A. It was never negotiated.

17:33:05 6 Q. Next entry. What is the next claim of ownership?

17:33:13 7 A. This is a Benny Smith transfer invoice for Fly First Down to

17:33:18 8 Jose Trevino.

17:33:21 9 Q. And, again, what is the claim of ownership on it?

17:33:26 10 A. Jose Trevino.

17:33:28 11 Q. Did you see any paperwork to reflect whether or not he

17:33:32 12 actually purchased the check -- I mean, the horse at that time?

17:33:36 13 A. There was no legitimate purchase.

17:33:39 14 MS. WILLIAMS: Objection, your Honor.

17:33:41 15 MS. FERNALD: At that time? Excuse me.

17:33:44 16 MS. WILLIAMS: Objection, your Honor. We've gotten no

17:33:46 17 notice of any opinion testimony by this witness, and I would

17:33:50 18 object to any opinion testimony that he might --

17:33:53 19 MR. DEGEURIN: And that is nonresponsive, your Honor.

17:33:56 20 MS. FERNALD: I didn't ask his opinion. I asked --

17:33:59 21 THE COURT: I sustain the objection.

17:34:00 22 And, members of the jury, the last answer by the

17:34:05 23 witness, you are not to consider for any purpose. An expert is a

17:34:10 24 person that could give an opinion, as I've already told you, but

17:34:14 25 the parties must notify the others who is alleged to be an expert

17:34:20 1 and what their opinions will be, and they have not been in this
17:34:23 2 witness. So you cannot consider that for any other purpose.

17:34:27 3 And from now on, counsel, let's don't refer to what's
17:34:30 4 legal and what's not. Then that would make me feel hopeless up
17:34:35 5 here because that's exactly what I determine. Do you understand?

17:34:38 6 THE WITNESS: I do.

17:34:39 7 THE COURT: Good. All right.

17:34:40 8 Q. (BY MS. FERNALD) Did you go through all this paperwork?

17:34:43 9 A. Yes.

17:34:43 10 Q. Did you find a purchase contract for Jose Trevino at that
17:34:48 11 time to purchase Fly First Down from Colorado-Cessa?

17:34:51 12 A. No.

17:34:51 13 Q. Are you aware of any checks that were negotiated with the
17:34:54 14 bank for the purchase of Fly First Down at this time?

17:34:58 15 A. No.

17:34:59 16 Q. Next claim of ownership. Can you tell us about this
17:35:11 17 particular photograph?

17:35:12 18 A. This is another race photo for a win by Fly First Down.

17:35:18 19 Q. It was on when?

17:35:20 20 A. October 16, 2011.

17:35:23 21 Q. And who was listed as the owner of Fly First Down at this
17:35:26 22 time?

17:35:26 23 A. Tremor Enterprises.

17:35:37 24 Q. Same questions. Did you see a check negotiated or a
17:35:39 25 purchase contract between Colorado-Cessa and Tremor Enterprises

17:35:45 1 for Jose Trevino at this time?

17:35:47 2 A. No.

17:35:50 3 Q. Next claim. When does Fly First Down die?

17:35:58 4 A. December 25th, 2011.

17:36:02 5 Q. And that's what this line is indicating right here?

17:36:05 6 A. Yes.

17:36:06 7 Q. Next claim of ownership entry. What do you see that happens

17:36:14 8 three months later after Fly First Down dies?

17:36:17 9 A. It is the purchase of Fly First Down, a check from Tremor

17:36:23 10 Enterprises to Francisco Colorado.

17:36:26 11 Q. For how much money?

17:36:27 12 A. \$50,000.

17:36:30 13 Q. Was it actually written on this particular date of March the

17:36:34 14 21st of 2012?

17:36:37 15 A. Yes.

17:36:38 16 Q. Do you know the date in which it was negotiated?

17:36:42 17 A. 4-20 of '12.

17:36:45 18 Q. One month later?

17:36:45 19 A. Yes.

17:36:46 20 Q. Go back out. I want to go to the bottom line of race

17:36:56 21 payments and entry. First entry. Do you see a race payment that

17:37:06 22 is made on the first entry? Can you tell us about that?

17:37:09 23 A. This is also in conjunction with the blue dot above that

17:37:16 24 where Ramirez is noted as the owner, but Adan Farias makes the

17:37:20 25 payment of \$200 for the race entry.

17:37:25 1 Q. You're talking about right here?

17:37:26 2 A. Yes.

17:37:30 3 Q. Next entry, please. Who's paying for the race payments

17:37:36 4 during February of 2011?

17:37:39 5 A. Carlos Nayen is.

17:37:42 6 Q. By the way, on the race payments and earnings, did you

17:37:46 7 include every single one?

17:37:49 8 A. The race payments, we included all the race payments. The

17:37:55 9 race earnings, we included all the race earnings.

17:37:57 10 Q. Okay. Next. What happened in May of 2011?

17:38:11 11 A. The horses under Francisco Colorado-Cessa, it's a Ruidoso

17:38:17 12 Downs statement of accounts, and those payments were from that

17:38:21 13 account.

17:38:23 14 Q. Is that a red dot or an orange dot for Trevino?

17:38:27 15 A. That is a red dot for Cessa.

17:38:29 16 Q. Next entry. Horse had some earnings on May the 27th of

17:38:39 17 2011; is that correct?

17:38:39 18 A. Yes.

17:38:40 19 Q. And who did those earnings go to?

17:38:42 20 A. Colorado-Cessa.

17:38:43 21 Q. And that would have gone to his horsemen's account; is that

17:38:46 22 correct?

17:38:46 23 A. Yes.

17:38:47 24 Q. Next. In June of 2011, what do you see about the earnings?

17:38:55 25 Where do the earnings start going to?

17:38:57 1 A. The race earning goes to Tremor.

17:39:02 2 Q. And it's earning \$16,000, is it not?

17:39:06 3 A. Yes.

17:39:07 4 Q. Next. Next. Next. Scroll on down. Are these all earnings

17:39:18 5 or, excuse me, payments that are being made by Tremor Enterprises

17:39:21 6 during this period of time?

17:39:22 7 A. Yes, they are.

17:39:23 8 Q. Next. Is that it? If you'll scroll on down.

17:39:41 9 During the time period of June the 27th to the time

17:39:43 10 that it dies, or a couple of days before its death, December,

17:39:49 11 what -- for Tremor, what is the race payments?

17:39:52 12 A. \$9,050.

17:39:55 13 Q. And the race earnings, lifetime race earnings?

17:40:01 14 A. \$67,786.

17:40:04 15 Q. Next category, please. Training and boarding bills. We'll

17:40:11 16 go through these pretty quickly.

17:40:13 17 Who's paying for the training and the boarding bills in

17:40:17 18 the winter months of 2011?

17:40:20 19 A. Carlos Nayen.

17:40:22 20 Q. Who owns the horse during this time, according to the

17:40:24 21 paperwork?

17:40:25 22 A. I see no paperwork.

17:40:28 23 Q. Colorado-Cessa?

17:40:30 24 A. Colorado-Cessa owns it.

17:40:40 25 Q. During this period of time is when Colorado-Cessa is owning

17:40:43 1 the horse; is that correct?

17:40:50 2 A. Yes.

17:40:52 3 Q. Next entry. And in June, Tremor picks it up and starts

17:41:02 4 paying for the training and the boarding bills; is that correct?

17:41:05 5 A. Yes.

17:41:09 6 Q. Scroll on down. Total amount of the training and boarding

17:41:20 7 bills for this time period is what?

17:41:22 8 A. For the total amount is \$19,819.

17:41:27 9 Q. When Colorado-Cessa's name was on the ownership of this

17:41:31 10 horse, how much was paid by Carlos Nayen during that time period?

17:41:36 11 A. \$4,672.

17:41:39 12 Q. And starting in June of 2011, how much did Tremor

17:41:45 13 Enterprises pay for the boarding of this particular horse?

17:41:48 14 A. \$15,147.

17:41:52 15 Q. Next, please, category. Next category is veterinary bills;

17:42:00 16 is that correct?

17:42:00 17 A. Yes.

17:42:02 18 Q. Veterinarian bills during the time of June. Do you have all

17:42:06 19 of the vet bills, by the way?

17:42:08 20 A. They're in the book.

17:42:10 21 Q. Do you know whether or not you have vet bills prior to this?

17:42:14 22 Did you subpoena every veterinarian company in the United States

17:42:17 23 of America?

17:42:18 24 A. No.

17:42:19 25 Q. All right. So these are the vet bills that you're aware of;

17:42:22 1 is that correct?

17:42:22 2 A. That is correct.

17:42:23 3 Q. Okay. What was the total amount of the vet bill from June

17:42:35 4 until December of 2011?

17:42:38 5 A. \$33,000.

17:42:40 6 Q. Of course, that would include the death of the horse, too,

17:42:42 7 and obviously horse being sick, correct?

17:42:46 8 A. Yes.

17:42:48 9 Q. What about insurance on this particular horse?

17:42:52 10 A. There was insurance.

17:42:54 11 Q. Who was paying for this horse?

17:42:57 12 A. It started out as Tremor Enterprises.

17:43:00 13 Q. When?

17:43:01 14 A. 9-5 of '10.

17:43:04 15 Q. Who was listed as the owner of this particular horse 9-5-10?

17:43:11 16 A. Francisco Colorado.

17:43:13 17 Q. Next entry. What happens in November, October of 2010?

17:43:22 18 A. The insurance is paid by Garcia Bloodstock, and they're

17:43:32 19 shown to be the insured -- the person insuring it and the

17:43:35 20 payments.

17:43:36 21 Q. How much is insurance premiums on a horse like this?

17:43:39 22 A. For that time period, it was \$8,730.

17:43:45 23 Q. Next entry. And in June of 2011, who picks up insurance on

17:43:51 24 this horse?

17:43:52 25 A. Tremor Enterprises.

17:43:54 1 Q. What was the amount of -- how much was it insured for?

17:43:58 2 A. \$400,000.

17:44:00 3 Q. And what was the amount of premium?

17:44:02 4 A. \$6,809.

17:44:05 5 Q. Next. Insurance from October -- I'm sorry. Mid-October of

17:44:15 6 2011. Is that the total amount? Is that the total amount of

17:44:22 7 premiums?

17:44:22 8 A. That's the total premium.

17:44:25 9 Q. What is total amount of premium on this particular horse?

17:44:27 10 A. \$19,400.

17:44:30 11 Q. And, again, when was the paperwork found that showed the

17:44:42 12 negotiation between Colorado-Cessa and Tremor Enterprises?

17:44:48 13 A. When was it found?

17:44:50 14 Q. When was that check -- when was that check issued?

17:44:53 15 A. 3-21 of 2012.

17:45:00 16 Q. Did I miss anything, in particular, on this horse?

17:45:03 17 A. No.

17:45:03 18 Q. Government's Exhibit 311A. Tell the ladies and gentlemen of

17:45:35 19 the jury about Blues Girls Choice.

17:45:37 20 A. This is a timeline, again, of the horse from its purchase to

17:45:42 21 the sale of it. And then, it will have the same -- it's

17:45:47 22 basically the same chart with the same expenses, race earnings,

17:45:52 23 insurance.

17:45:54 24 Q. Let's go over these one by one. What's the first entry on

17:46:00 25 claim of ownership here?

17:46:01 1 A. The first entry is the purchase of Blues Girls Choice by
17:46:08 2 Ramiro Villarreal for \$15,000 cash.

17:46:13 3 Q. And this is the Lucky 7 Ranch exhibit that's previously been
17:46:18 4 admitted, correct?

17:46:19 5 A. Yes.

17:46:20 6 Q. Contained in the notebook which you prepared for this jury?

17:46:23 7 A. Yes.

17:46:23 8 Q. Next claim. Initially purchased it for \$15,000 on September
17:46:37 9 9th. What happens a month later?

17:46:41 10 A. Ramiro Villarreal repurchases his own horse at the Los
17:46:48 11 Alamitos horse sale for \$135,000.

17:46:51 12 Q. Next claim.

17:47:03 13 A. The next claim is Hector Roldan is noted as the owner of
17:47:08 14 Blues Girl Choice by AQHA on that same day.

17:47:12 15 Q. Next entry.

17:47:15 16 A. On October 5th, the next day, Tremor Enterprises is noted as
17:47:21 17 the owner by AQHA records.

17:47:24 18 Q. The BGC, obviously Blues Girls Choice?

17:47:27 19 A. Yes.

17:47:28 20 Q. Next entry. What do you find out in January of 2010?

17:47:34 21 A. This is a subpoenaed document for Pacific Coast for Carlos
17:47:39 22 Nayen, who's noted as the owner of Blues Girls Choice.

17:47:42 23 Q. Next entry. When does Tremor purchase Blues Girls Choice?

17:47:49 24 A. On May 20, 2010.

17:47:51 25 Q. How much does Tremor purchase Blues Girls Choice for?

17:47:55 1 A. \$30,000.

17:47:58 2 Q. And the last purchase that you have on there is for

17:48:04 3 \$135,000; is that correct?

17:48:04 4 A. Yes.

17:48:06 5 Q. Next entry. What do you find out in November of 2011?

17:48:23 6 A. Blues Girl Choice is placed for sale by Tremor and Efrain

17:48:29 7 Ramos purchases Blues Girls Choice for \$102,000.

17:48:41 8 Q. So purchased it for 30,000 and then, sold it for 102; is

17:48:47 9 that correct?

17:48:47 10 A. Yes.

17:48:47 11 Q. Next entry. I guess I should say next category, please.

17:49:02 12 Race payments and earnings, let's go through these.

17:49:05 13 Who was making the race payments when Villarreal owned

17:49:09 14 it or was claiming ownership of it in January of 2010?

17:49:14 15 A. The first payment was Nayen put it in the race, but a Grupo

17:49:23 16 wire was sent to make the entry payments.

17:49:29 17 Q. Next. Who's making the race payments during this period of

17:49:32 18 time?

17:49:32 19 A. Carlos Nayen.

17:49:34 20 Q. Next. Who's receiving the money for it?

17:49:41 21 A. Tremor Enterprises.

17:49:42 22 Q. Race earnings?

17:49:43 23 A. Yes.

17:49:43 24 Q. Next. Scroll down, please. Tremor has now placed ownership

17:49:52 25 papers for \$30,000 during this time period?

17:49:55 1 A. Yes.

17:49:57 2 Q. Who's making the race payments and who is getting the race

17:50:00 3 earnings?

17:50:01 4 A. Tremor Enterprises.

17:50:03 5 Q. Next. Lifetime race earnings?

17:50:07 6 A. \$4,630.

17:50:13 7 Q. Is this the first time that you have been familiar with the

17:50:17 8 quarter horse industry?

17:50:18 9 A. No.

17:50:19 10 Q. Can you tell the ladies and gentlemen of the jury what you

17:50:21 11 did when you were a kid?

17:50:22 12 A. I grew up on a quarter horse farm.

17:50:25 13 Q. How many years did you spend with quarter horses?

17:50:28 14 A. Over five years.

17:50:30 15 Q. Is it pretty much a gambling business? Sometimes you

17:50:33 16 purchase horses for a lot of money, they don't make a lot for

17:50:36 17 you, and vice versa?

17:50:37 18 A. That's correct.

17:50:37 19 Q. All right. Next category, please. Training and boarding

17:50:48 20 from April -- excuse me. From May of 2010 until November of

17:50:58 21 2010. Who's paying for the boarding?

17:51:00 22 A. Tremor Enterprises.

17:51:00 23 Q. Next entry. Who pays for it on November the 30th?

17:51:07 24 A. Carlos Nayen.

17:51:09 25 Q. Next entry, please. Again, who's paying for the boarding?

17:51:16 1 A. Tremor Enterprises.

17:51:18 2 Q. Next entry.

17:51:22 3 A. Carlos Nayen.

17:51:23 4 Q. Next category, please. Veterinarian bills. Who's paying

17:51:33 5 for the vet bills?

17:51:35 6 A. Tremor Enterprises.

17:51:36 7 Q. Which is consistent with the papers -- paperwork of

17:51:39 8 purchasing it with \$30,000; is that correct?

17:51:41 9 A. That's correct.

17:51:43 10 Q. Next entry. Insurance.

17:51:48 11 A. The insurance is under Santa Fe Roldan.

17:51:55 12 Q. Premium amount?

17:51:57 13 A. \$4,038.

17:52:00 14 Q. What were the insurance papers like to go through on these

17:52:04 15 particular horses?

17:52:06 16 A. Very, very confusing.

17:52:08 17 Q. And why is that?

17:52:11 18 A. The person who may show to be the owner on the horse

17:52:15 19 document is not the person insuring the horse or even dealing

17:52:18 20 with getting the insurance for the horse. You have many

17:52:23 21 different people obtaining the insurance, and you'll have

17:52:27 22 different people paying the insurance.

17:52:30 23 Q. How confusing were all of these particular horses to go

17:52:34 24 through and determine all of these different categories?

17:52:36 25 A. Very confusing.

17:52:37 1 Q. Why?

17:52:39 2 A. You have many different people who are making payments, they

17:52:45 3 don't show any ownership. They are receiving some income by the

17:52:51 4 documents, but they don't own the horse. They are making

17:52:56 5 payments on insurance that they have no association -- the

17:53:01 6 documentation showing that they are associated with this horse at

17:53:04 7 all.

17:53:13 8 Q. Those are all the categories on this? Insurance, again, I

17:53:19 9 guess insurance picks up with Tremor up here in October of 2010,

17:53:23 10 correct?

17:53:24 11 A. Yes.

17:53:24 12 Q. Next. Let's move to 312A, please. 312A is Blues Ferrari.

17:53:56 13 A. Yes.

17:53:57 14 Q. Ownership, please?

17:53:58 15 A. The first ownership is Ramiro Villarreal purchased the horse

17:54:07 16 from Lucky 7 Ranch. This time, the horse is named Blues Man Can.

17:54:12 17 Q. Next. And this was for how much?

17:54:14 18 A. 15,000.

17:54:16 19 Q. Next, please. What do you see in January of 2010?

17:54:22 20 A. This is a race payment. It's from Pacific Coast subpoena.

17:54:28 21 Carlos Nayen is noted as the owner.

17:54:30 22 Q. Next. What happens in March of 2010?

17:54:38 23 A. Per AQHA records, this horse is registered to Fast And

17:54:45 24 Furious.

17:54:45 25 Q. Next. What do you find out in April of 2010?

17:54:53 1 A. Nayen is still shown as the owner of this horse, and he
17:54:58 2 changes the name Blues Man Can to Blues Ferrari.

17:55:02 3 Q. Next. What do we have a dotted line here?

17:55:08 4 A. This is the -- it's a check for the purchase of Blues
17:55:17 5 Ferrari from Tremor Enterprises to Fast And Furious, but it's
17:55:23 6 voided.

17:55:23 7 Q. And this is on which date?

17:55:25 8 A. 10-1, I believe, 2010.

17:55:28 9 Q. Next. This is a picture of Blues Ferrari in the winner's
17:55:40 10 circle, correct?

17:55:40 11 A. Yes.

17:55:41 12 Q. What's the date on it?

17:55:43 13 A. October 15, 2010.

17:55:45 14 Q. And who's the listed owner?

17:55:47 15 A. Tremor Enterprises.

17:55:49 16 Q. Did you find the purchase agreement or any documents to
17:55:53 17 reflect the ownership to Tremor at this time?

17:55:55 18 A. No.

17:55:56 19 Q. Next.

17:56:14 20 A. This is the Tremor Enterprises check to Fast And Furious for
17:56:18 21 \$50,000, dated 12-20 of 2010.

17:56:24 22 Q. Next. It went backwards. Why did it do that?

17:56:36 23 A. This is a sale fee to put the horse up for purchase at
17:56:40 24 Heritage to sell the horse.

17:56:44 25 Q. So prior to the purchase of the horse, what was Tremor

17:56:49 1 Enterprises doing?

17:56:50 2 A. He is putting the horse up for sale.

17:56:55 3 Q. Can we go back to the photograph at the winner circle? See

17:57:01 4 how good you are. Do you know who's in this picture?

17:57:04 5 A. Yes.

17:57:06 6 Q. Identify the parties for me.

17:57:09 7 A. This is Ramiro Villarreal. This is Adan Farias, and this is

17:57:20 8 Fernando Garcia.

17:57:40 9 Q. Tell me about the next entry.

17:57:43 10 A. The horse Blues Ferrari is sold at the Heritage sale for

17:57:48 11 \$310,000, January 15, 2011 to Alfonso Del Rayo.

17:57:59 12 Q. How much is it sold for?

17:58:00 13 A. \$310,000.

17:58:03 14 Q. And, Investigator Schutt, how much was it purchased for just

17:58:07 15 a month before?

17:58:08 16 A. \$50,000.

17:58:08 17 Q. Next entry. What do you see with these particular checks?

17:58:13 18 A. These are two personal checks for the purchase of the horse

17:58:16 19 by Del Rayo's wife.

17:58:25 20 Q. Next entry. Race payments and earnings. Tell me who was

17:58:34 21 making the race payments.

17:58:36 22 THE COURT: Mark your spot. 6:00, members of the jury.

17:58:44 23 Remember my instructions. Let me give you some further

17:58:47 24 instructions. We will not be working on Friday. So Friday will

17:58:52 25 be your day to do whatever you need during the week. We try to

17:58:57 1 do that generally. But everybody seems to need to do something
17:59:04 2 on a Friday from lawyers on up. So we will not be working on
17:59:09 3 Friday. We will be working till Friday, hopefully till 6:00 each
17:59:15 4 night.

17:59:16 5 Remember the instructions and have a nice night.

17:59:50 6 (Jury not present.)

18:00:01 7 THE COURT: 8:30 tomorrow, everybody but the lawyers.

18:00:10 8 8:25 for the lawyers. I'll hear any objections on 310, 11 and
18:00:17 9 12. That will give you time to look at them and see what you
18:00:21 10 want to do on that. Have a good evening.

18:00:23 11 MR. FINN: Yes, your Honor.

18:00:23 12 (Proceedings adjourned.)

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